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Vol. 1.

**THE
UNITED PROVINCES CODE.**

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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE
UNITED PROVINCES CODE:

CONSISTING OF

THE BENGAL REGULATIONS AND THE LOCAL ACTS OF
THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN
THE UNITED PROVINCES OF AGRA AND OUDH,

THE ACTS OF THE LIEUTENANT-GOVERNOR OF THE UNITED
PROVINCES OF AGRA AND OUDH IN COUNCIL,

AND

LISTS OF THE ENACTMENTS WHICH HAVE BEEN DECLARED IN FORCE
IN, OR EXTENDED TO, THE SCHEDULED DISTRICTS OF THE
PROVINCE OF AGRA BY NOTIFICATION UNDER
THE SCHEDULED DISTRICTS ACT, 1874;

WITH

A CHRONOLOGICAL TABLE AND AN INDEX.

(IN TWO VOLUMES.)

65224

FOURTH EDITION.

[Vol. I.—Bengal Regulations and local Acts of the Governor General in
Council.]

CALCUTTA:

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PREFACE.

THIS, the fourth edition of the United Provinces Code (formerly the North-Western Provinces and Oudh Code), contains (with four exceptions) the local enactments in force in the United Provinces of Agra and Oudh. The exceptions referred to are Acts XV of 1878 (*Husainabad Endowment*), I of 1881 (*Taj Mahal's Pension*), X of 1883 (*Bikrama Singh's Estates*), and XXI of 1886 (*Wasikas*), which are omitted as being of personal or limited application. The present edition differs from the previous one only so far, that additional notes have been inserted in it referring to rules and orders made under the enactments it contains. The change in its title results from the change which was made in the designation of these Provinces by the Proclamation of the 22nd March, 1902, Gazette of India, 1902, Part I, page 228. Footnotes, referring to this change and to the United Provinces (Designation) Act, 1902 (VII of 1902), have been added to the several enactments.

2. As in the case of other local Codes prepared in the Legislative Department, the enactments in this Code have been arranged chronologically in three parts according to the class to which they belong. Part I contains the Bengal Regulations; Part II, the Acts of the Governor General in Council in force in these Provinces which are not of general application throughout British India, and in Part III are reproduced the Unrepealed Acts of the Lieutenant-Governor of the United Provinces of Agra and Oudh in Council. The extent of the territorial application of each enactment has been noted beneath its title. The present Code will consist of over a thousand pages and for this reason is published in two volumes. The first volume contains the Bengal Regulations and Local Acts of the Governor General in Council, and the second volume, the Acts passed by the Lieutenant-

Governor in Council, up to date. Appended to the second volume are lists of the enactments which have been declared in force in, or extended to, the Scheduled Districts of the Province of Agra by notification under the Scheduled Districts Act, 1874 (XIV of 1874).

3. The Acts of the Governor General in Council which apply to the United Provinces of Agra and Oudh in common with the rest of British India are printed in the volumes of General Acts published by the Legislative Department.

4. A chronological table showing all repeals and amendments affecting the United Provinces is prefixed to the first volume and an alphabetical index to the enactments contained in the Code is placed at the end of the second volume. The Code has been prepared and passed through the Press with the assistance of Mr. G. R. Ridge, Superintendent of the Publication Branch of the Legislative Department.

JOHN MORISON,
Barrister-at-Law and Personal Assistant
to the Secretary to the Govt. of India in the
Legislative Department.

SIMLA ;
The 1st June, 1906.

CHRONOLOGICAL TABLE.

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Year.	No.	Subject.	Application.	Repeals and amendments affecting the United Provinces.	Page.
1793	XXXVIII	¹ The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.	Province of Agra.	Rep. in part, Act 8 of 1868 ; „ 16 of 1874 ; „ 12 of 1891 ; „ 1 of 1903.	1
1795	I	² The Benares Permanent Settlement Regulation, 1795.	„	Rep. in part, Act 12 of 1876 ; Act 12 of 1891. Supplemented, Ben. Reg. 27 of 1795.	2
„	XV	² The Benares Family Domains Regulation, 1795.	„	Rep. in part, Act 10 of 1861 ; Act 12 of 1876 ; Act 12 of 1891. Amended, Ben. Reg. 7 of 1828.	6
„	XXVII	² The Benares Permanent Settlement (Supplemental) Regulation, 1795.	„	Rep. in part, Ben. Reg. 12 of 1817 ; Act 4 of 1846 ; „ 16 of 1874 ; „ 12 of 1891.	8
„	XLIV	² The Benares Inheritance Regulation, 1795.	„	16
1799	V	¹ The Bengal Wills and Intestacy Regulation, 1799.	„	Rep. in part, Act 40 of 1858 ; Act 16 of 1874 ; „ 12 of 1891 ; and amended, Act 1 of 1903 Amended, Ben. Reg. 5 of 1827 ; Act 19 of 1886.	17

¹ This title was given by the Repealing and Amending Act, 1887 (5 of 1887), s. 4, General Acts, Vol. VI.

² This title was given by the repealing and Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. J, p. 20.

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1804	X	² The Bengal State-offences Regulation, 1804.	"	Rep. in part, Act 16 of 1874; " 12 of 1891. Applied to Oudh, with modifications. Act 18 of 1876.	25
1806	XI	² The Bengal Troops Transport and Travellers' Assistance Regulation, 1806.	"	Rep. in part, Ben. Reg. 2 of 1811; Ben. Reg. 3 of 1820; Act 16 of 1874; " 12 of 1876; " 12 of 1891. Rep. in part and amended, 5 of 1897. Supplemented, Ben. Reg. 6 of 1825. Applied to Oudh, with modifications, Act 18 of 1876 as amended by Act 20 of 1890 and Act 12 of 1891.	27
1812	XI	² The Bengal Foreign Immigrants Regulation, 1812.	Province of Agra.	Rep. in part, Act 16 of 1874; Amended, Act 5 of 1897; " 13 of 1898; " 1 of 1903.	34
1817	XX	¹ The Bengal Police Regulation, 1817.	"	Rep. in part, Ben. Reg. 7 of 1829; Act 18 of 1835; " 10 of 1859; " 17 of 1862; " 16 of 1873; " 16 of 1874; " 8 of 1875; " 12 of 1876. Rep. in part and amended. Act 12 of 1891.	37
1818	III	² The Bengal State Prisoners Regulation, 1818.	United Provinces.	Rep. in part, Act 16 of 1874; " 1 of 1903. Amended, Act 12 of 1891. Supplemented, Act 34 of 1850; Act 3 of 1858. Applied to Oudh, with modifications, Act 18 of 1876.	41

¹ This title was given by the Repealing and Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I, p. 20.

² This title was given by the Repealing and Amending Act, 1897 (5 of 1897), s. 4, General Acts, Vol. VI.

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„	VII	² The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.	„	Rep. in part, Act 16 of 1874 ; „ 1 of 1903. Amended, Act 5 of 1897.	52
1825	VI	² The Bengal Troops Transport Regulation, 1825.	United Provinces.	Rep. in part, Act 12 of 1876 ; „ 1 of 1903. Applied to Oudh, with modifications, Act 18 of 1876.	54
„	XI	² The Bengal Alluvion and Diluvion Regulation, 1825.	„	Rep. in part, Act 1 of 1903. Applied to Oudh, with modifications, Act 18 of 1876.	56
1827	III	² The Bengal Corruption and Extortion Regulation, 1827.	Province of Agra.	Rep. in part, Act 16 of 1874 ; „ 12 of 1876. Amended, Act 1 of 1903.	60
„	V	² The Bengal Attached Estates Management Regulation, 1827.	„	Rep. in part, Act 16 of 1874 ; and amended, Act 1 of 1903.	61
1828	VII	¹ The Benares Family Domains Regulation, 1828.	„	Rep. in part and amended. Act 14 of 1881.	62
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¹ This title was given by the Repealing and Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. 1, p. 20.

² This title was given by the Repealing and Amending Act, 1897 (5 of 1897), s. 4, General Acts, Vol. VI.

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1831	XI	Police-powers of Tahsildars.	„	Rep. in part, Act 16 of 1874; „ 12 of 1876; „ 12 of 1891. Rep. in part and amended, Act 16 of 1854.	74
1833	IX	¹ The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.	„	Rep. in part, Act 10 of 1873; „ 16 of 1874; „ 19 of 1873; and amended, Act 1 of 1903. Amended, Act 19 of 1886.	75

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„	XX	¹ The Bengal Chaukidari Act, 1856.	United Provinces.	Rep. in part, Act 14 of 1870; „ 10 of 1872. Rep. in part and amended, Act 22 of 1871; „ 12 of 1891. Applied to Oudh, with modifications, Act 18 of 1876. Rep. (in municipalities), U. P. Act, 1 of 1900, s. 19.	86

¹ This title was given by the Repealing and Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I, p. 20.

² This title was given by the Repealing and Amending Act, 1897 (5 of 1897), s. 4, General Acts, Vol. VI.

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„	XXII	¹ The Bengal Chaukidari (Amendment) Act, 1871.	United Provinces.	Rep. in part, Act 12 of 1891. Applied to Oudh, with modifications, Act 18 of 1876.	152
„	XXVII	The Criminal Tribes Act, 1871.	„	Rep. in part, Act 16 of 1874; „ 12 of 1876. Amended, Act 7 of 1876; „ 2 of 1897.	154
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¹ This title was given by the Repealing and Amending Act, 1903 (1 of 1903), Bengal Code, Vol. I, p. 20.

² This title was given by the Repealing and Amending Act, 1897 (5 of 1897), s. 4, General Acts, Vol. VI.

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"	XV	Hussainabad Endowment.	Oudh	Not re-printed.
"	XVII	The Northern India Ferries Act, 1878.	United Provinces.	Rep. in part, Act 12 of 1891 ; " 2 of 1901. Amended, Act 14 of 1883, ss. 64 & 65 ; " 3 of 1886. U. P. Act 2 of 1906.	221
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¹ This title was given by the Repealing and Amending Act, 1903 (1 of 1903), Bengal Code, Vol. J, p. 20.

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"	XIV	The N.-W. P. and Oudh Local Boards Act, 1883.	United Provinces.	Rep. in part, U. P. Act 5 of 1894 ; and amended, 13 of 1891. Rest rep. U. P. Act 3 of 1906. Application restricted, U. P. Act 3 of 1904.	282
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¹ This title was given by the Repealing and Amending Act, 1897 (5 of 1897), s. 4, General Acts, Vol. VI.

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"	XXII	The Oudh Rent Act, 1886.	Oudh	Rep. in part, Act 12 of 1891 Rep. in part and amended, Act 20 of 1890, ss. 44 to 53 and 55 to 60. Amended, U. P. Act 4 of 1901.	323
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THE
UNITED PROVINCES CODE.
VOLUME I.

PART I:

BENGAL REGULATIONS IN FORCE IN THE UNITED
PROVINCES OF AGRA AND OUDH.

BENGAL REGULATION XXXVIII OF 1793.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[1st May, 1793.]

A Regulation for re-enacting, with modifications, such part of the Rule passed on the 27th June, 1787, as prohibits covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to zamindars, independent taluqdars or other actual proprietors of land, or dependent taluqdars, or farmers of land holding farms immediately of Government, or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above mentioned, or their respective sureties ² * * * * *

1. At an early period after the establishment of the British Government in this country, the servants of the Company employed in the administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers, and others concerned in the collection or

Preamble.

¹ *Ss.* 1 and 2 of Ben. Reg. 38 of 1793 were declared, by the Laws Local Extent Act, 1874 (15 of 1874), General Acts, Vol. II, s. 7, to be in force in the whole of the Province of Agra, except as regards the Scheduled Districts. They have been declared by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in Kumaon and Garhwal, in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and they were extended, by notification under the same Act, to the Tarai Parganas—see Appendix, pp. 965, 1002, 1013 and 985.

Short title, the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793, *see* the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

² The words “and for re-enacting, with alterations, the existing rules prohibiting Europeans of any description holding possession of lands that may be mortgaged to them, or purchasing or renting lands for erecting houses or buildings, for carrying on manufactures, or other purposes, without the sanction of the Governor General in Council” were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

Benares Permanent Settlement. (Sec. 1) [1795 : Ben. Reg. I.

payment of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practice had they been permitted to engage in such transactions with individuals subject to their official control and authority.

This rule was incorporated with the Judicial Regulations passed on the 5th July, 1781, and has since continued in force.

1 * * * * *

The rules above-mentioned are hereby re-enacted with modifications.

Covenanted
servants not
to lend money
to proprietors,
etc., of land.

2. The Judges and Magistrates of the Zila * * * Courts * * * and their assistants, or other officers being covenanted servants of the Company, and the collectors of the revenue and their assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent taluqdar, or under-farmer or raiyat, or their sureties; and all such loans as * * * * * may be hereafter made, are declared not recoverable in any Court of Judicature.

3-6. [*Holding of land by Europeans.*] Rep. Act VIII of 1868.

BENGAL REGULATION I OF 1795.⁴

[APPLIES TO THE PROVINCE OF AGRA.]

[27th March, 1795.]

A Regulation for fixing in perpetuity the revenue assessed on the lands in the Province of Benares; for the more general restoration of the ancient zamindars ⁵ * * * * *

Preamble.

1. The Governor General in Council having determined, with the concurrence of the Raja of Benares, to introduce into that Province, as far as local circumstances will admit, the same system of interior administration as

¹ The third paragraph was repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² The words "and City" before the word "Courts" and the words "the Judges of the Provincial Courts of Appeal and the Courts of Circuit, and the registers to their respective Courts" after the word "Courts" were repealed by the Repealing Act, 1874 (16 of 1874).

³ The words "have been made in opposition to the repeated prohibitions of Government or which" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

⁴ Short title, the Benares Permanent Settlement Regulation, 1795, see the Repealing and Amending Act, 1903 (1 of 1903), s. 2, Vol. I, Bengal Code, p. 18.

For further provisions as to the Benares Permanent Settlement, see Bengal Regulation 27 of 1795, *infra*, p. 8.

⁵ The words and figures "and for extending to the Province of Benares the Rules prescribed in Regulation XLI, 1793" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

(Sec. 2.)

has been established in the Provinces of Bengal, Behar and Orissa, and the limitation of the annual revenue payable from the lands forming an essential part of that system, as stated in the preamble to Regulation II, 1793,¹ the following rules have been enacted.

2. On the expiration of the year 1195 Fasli, the Governor General in Council instructed the Resident to make the settlement of the revenue for the ensuing year 1196 under his own immediate control. The Resident accordingly completed the settlement, by granting leases for the term of one year to certain amils, and for five years to others, by which they bound themselves to pay a specific jama or assessment.

Origin and progress of assessment of land-revenue in Benares.

But the Governor General in Council being desirous of extending to the Province of Benares from the beginning of the year 1197, as far as circumstances might admit, the principles of the decennial settlement directed to be formed in the Provinces of Bengal, Behar and Orissa, those principles were accordingly introduced in the districts of which the amils in the preceding year had obtained leases for five years, by their consenting to the Resident's issuing pattas or leases, under their and his joint seals and signatures, for the remaining four years of the term of their own engagements, to all the taluqdars and to the village-zamindars and farmers, by which it was stipulated that they should pay a certain fixed assessment, the amount of which should be received by the amils and accounted for by them to Government; and in the districts the leases of which had been granted for one year only, and had consequently expired, by the issuing of pattas to the taluqdars, and the village-zamindars and farmers, under the signature of the Resident and the Raja, fixing the revenue to be in like manner paid by them through the amils for the term of ten years.

The particulars of these arrangements were detailed in the reports on the said settlements for one year, and for four and ten years, made to the Governor General in Council by the Resident, on the 26th of April, the 30th of November, and the 26th of December, 1789, and the 25th of November, 1790, and in the papers and accounts therein referred to; and, on a consideration of them, the Governor General in Council, on the 11th of February, 1791, approved of the said quartennial and decennial settlements with the taluqdars, village-zamindars and farmers, and ordered "that the four years' pattas be confirmed for the ensuing six, so as to reduce the whole to a ten years' settlement, and that assurances be given to the patta-holders, that as long as they continue to pay their revenue stipulated in the last year of the increase, as specified in

¹ The Bengal Land-revenue Regulation, 1793, Bengal Code, Vol. II. Ed. 1905, p. 443.

their several pattas, they shall not be liable to any further demand during their lives."

This order has been repeatedly notified to the parties whom it concerned who, with the exception of the patta-holders in a few parganas, and of certain individual zamindars and farmers in others, have, by the performance of the conditions required of them, become entitled to hold their lands at a fixed assessment during their lives, as specified in the said order.

Revenue assessed on lands included in pattas, conditions of which have been performed, fixed in perpetuity.

The Governor General in Council has now further resolved that the revenue stipulated to be paid on account of the lands included in the quartennial and decennial pattas, the conditions of which have been performed, whether held by zamindars or farmers, shall be fixed in perpetuity, and that the person or persons now holding, or who may hereafter become entitled under the Regulations to succeed to, such pattas, shall not be liable to any additional payment beyond the highest annual jama specified in such pattas.

That this resolution may be rendered more immediately and generally known, the Resident is to notify it to the parties interested by a proclamation to the following effect.

Proclamation. Revenue assessed on lands agreeably to pattas granted under rules for quartennial and decennial settlements, declared fixed in perpetuity.

3. *First*.—"On the 11th February, 1791, the Governor General in Council signified his approbation and confirmation of the quartennial and decennial settlements, formed in the Fashi year 1197 (1789-90), throughout the four sarkars comprised in the Province of Benares, and directed, in respect to the pattas for four years, that the amount of the jama payable thereby in the fourth year should be continued for the next six years, so as to place the quartennial pattas on the same footing as the pattas granted for ten years.

"The Governor General in Council now declares that the jama payable according to the quartennial and decennial pattas shall remain fixed for ever, so that no sum exceeding the amount specified as the highest annual jama payable according to the said pattas shall ever be required of those pattadars, or holders of pattas, who have hitherto paid up their revenue and observed all the other conditions specified in their pattas, nor of those who may hereafter become entitled to hold or succeed to such pattas, so long as they shall continue to discharge the amount, and to perform the conditions therein stipulated.

Reservations under which above declarations are made.

Second.—"The above declarations are made with the following reservations.

Third.—"The holders of the pattas are to be considered as bound to conform to all regulations regarding them, the preservation of the rights of the pattidars, or sharers in estates, the raiyats, or the administration of justice

(Sec. 3.)

which have been or may be passed by the Governor General in Council
* * * * 1.

Fourth.—"The succession to zamindaris is to take place according to the established laws, rules and customs of the country, as provided for in the Regulations passed, or which may be enacted, for the Province of Benares
* * * * 1.

Rule regarding succession to zamindaris.

Fifth.—"In the event of the death of a farmer holding a patta for lands the zamindar of which was dispossessed previous to the 1st July, 1775, the date of the cession of the Province of Benares to the Company, or of the patta of any such farmer becoming otherwise void, it has been determined, with the concurrence of the Raja of Benares, that such zamindar, or his heir or heirs, shall be restored to the estate, provided he or they shall agree to pay the fixed jama assessed on the lands agreeably to such patta, and to conform to all Regulations for the collection of the revenue, the administration of justice or other matters * * * * * 2.

Cases in which zamindar dispossessed before 1st July, 1775, shall be restored to his estate on avoidance of patta granted for it to farmer.

"In such case, the estate shall be made over to him or them, in preference to its being leased to a new farmer or to the heir of the last patta-holder.

Sixth.—"According to the well-known rule prevailing in the Province, those zamindars who have had possession of their estates since the 1st of July, 1775, but who were nevertheless excluded at the forming of the permanent settlement, may recover possession of their estates from the farmers who may hold pattas for, and be in the actual management of, them, by proving their intermediate possession in the Court of Diwani Adalat.

Cases in which zamindars in possession of estates since 1st July, 1775, but which have been leased to farmers, may recover possession from such farmers.

"The Courts of Diwani Adalat are accordingly to decree the restoration of any such zamindar so claiming, on proof being made by him of such intermediate possession; but every such decree is to provide for such zamindar's previously indemnifying the farmer for the loss which he may prove to the satisfaction of the Court to have sustained in consequence of his having held the lands under the patta of Government; and the Court is accordingly to inquire into and decide upon such loss, and to cause the amount to be made good to the farmer, before the zamindar is reinstated."

4. [*Extension of Bengal Regulation XLI, 1793, to Benares.*] *Rep. Act XII of 1876.*

¹ The words and figures "and printed and published in the manner prescribed in Regulation XLI, 1793" in the third and fourth clauses were repealed by the Repealing Act, 1876 (12 of 1876).

² The words and figures "which may be printed and published in the manner prescribed in Regulation XLI, 1793" at the end of the fifth clause were repealed by the Repealing Act, 1876 (12 of 1876).

BENGAL REGULATION XV of 1795.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[27th March, 1795.]

A Regulation² * * * * * for referring certain cases to the decision of the Raja of Benares.

Preamble.

1. Previous to the establishment of Courts of Justice in the Province of Benares, individuals in general were under the necessity of having recourse to arbitration for the adjustment of the differences occasionally arising between them in respect to matters of property ; and the same mode of adjustment has since been prevalent in the Province, the parties in suits before the Courts often agreeing to submit to the award of a certain number of their neighbours or other persons, and the award, when confirmed by the Court, becoming a decree of the Court.

The Governor General in Council being desirous to promote the reference of disputes of certain descriptions to arbitration, and having deemed it proper to submit certain cases to the decision of the Raja, the following rules have been enacted.

2. [*Extension of Ben. Reg. XVI of 1793 to Benares.*] Rep. Act X of 1861.

Cases to be referred to Raja.

3. *First.*—In the event of any complaints being preferred * * *³ to any Zila Court, * * * * *³ relative to undue exactions of revenue, or any breach of agreement in respect to pattas, or the resumption of krishnarpan, or other description of lands exempted from the payment of revenue, in the jagir mahals of Badhoi or of Khara Mangror, or in the Raja's hereditary zamindari of Gangapur, the complaints are not to be taken cognizance of in the Courts of Justice, but the parties are to be desired to make application to the Raja or to his Diwan ; and in case of their not obtaining justice they are to have recourse to the Collector, who will proceed to bring such causes to a just and equitable termination, in the manner stated in the under-specified article of an agreement concluded by the Resident with Raja Mahipnarain, under date the 27th of October, 1794.

¹ Ben. Reg. 15 of 1795 is modified by Ben. Reg. 7 of 1828, *infra*, p. 62.

Short title, the Benares Family Domains Regulation, 1795, see the Repealing and Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I, p. 10.

² The words and figures "for extending to the Province of Benares Regulation XVI, 1793, entitled 'a Regulation for referring suits to arbitration, and submitting certain cases to the decision of the Nazim, with the exception of Section X,' and" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

³ The words "to the City Court or" after the word "preferred" and the words "or to the Provincial Court of Appeal" after the word "Court" were repealed by the Repealing Act, 1876 (12 of 1876).

(Sec. 3.)

An option, however, is reserved to the persons deeming themselves injured to prefer their applications for redress in the first instance to the Collector, who in all cases, by reference to, and communication with, the Raja and his officers, is to cause substantial justice to be rendered to the parties.

Second.—Article third of an agreement concluded by the Resident at Benares with Raja Mahipnarain, under date the 27th of October, 1794:—“In case of complaints relative to revenue-causes or charity-ground, etc., being preferred to the huzur (*i.e.*, the English Government) by any parties residing within the jagir and *altamga*, etc., the personal or private lands of Raja Mahipnarain Singh, the inquiry therein shall be made in like manner as such cases were amicably conducted between Mr. Duncan and the Raja; that is, that since the gentlemen holding the station of Collector will have more concern and connection with such matters than the other gentlemen, the rule shall be that, with the privity and ascertainment of the said Collector (who is to have regard to the honour and dignity of the said Raja), such causes are to be settled through the channel of the said Raja, or of the officers of the said Raja’s *kachahri*; it being at the same time understood and provided, that as it is a duty incumbent on the Hon’ble Company’s Government to distribute and ensure the attainment of justice to all the inhabitants of Benares, should it so happen that, after referring such complaints to the Raja or to his officers in the *kachahri*, the contentment of the parties complaining and aggrieved shall not be obtained, the Raja shall, relative to the adjustment of such causes listen to, and approve of, the suggestions and advice of the Collector, in like manner as hath been practised in the time of Mr. Duncan; and it is also incumbent on the said Collector, in all proper and just cases, to show the utmost attention possible to the Raja’s accommodation, and to hold in view the maintenance of his honour and dignity, such being entirely consistent with the wishes of Government; and, if (which God forbid) any such subject should arise as cannot be settled between the said Collector and the Raja aforesaid, the decision in such case shall depend on the Governor General in Council.”

Article of
agreement.

BENGAL REGULATION XXVII OF 1795.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[27th March, 1795.]

A Regulation declaratory of certain reservations made by Government, and of rights preserved to the proprietors of landed estates, under the permanent settlement of the land-revenue made in the Province of Benares; for allowing of the transfer or division of entire estates, or portions of estates, and prescribing rules for apportioning the fixed jama on the several shares of estates which may be divided, or portions of estates which may be transferred * * * * *

Preamble.

1. Regulations I³ and II,⁴ 1795, contain the rules according to which the settlement of the land-revenue in the Province of Benares made for one year, and the quartennial and decennial settlements, were concluded.

By the first-mentioned Regulation, the decennial settlement has been declared permanent, and for the information and guidance of the taluqdars, zamindars and other actual proprietors of land, and all persons whomsoever, the following further rules respecting the permanent settlement are enacted.

**Jama here-
after agreed
to by proprie-
tors whose
lands are held
amani or let
in farm, de-
clared fixed
for ever.**

2. As the lands of some few zamindars and other actual proprietors of land may have been continued amani or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations for the quartennial and decennial settlements, the Governor General in Council notifies to the taluqdars, zamindars and other actual proprietors of land whose lands are held amani, that they shall be restored to the management of their lands upon their agreeing to the payment of the assessment which has been or may be required of them in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment, but that they and their heirs and lawful successors shall be permitted to hold their respective estates at such assessment for ever ;

and he declares to the taluqdars, zamindars and other actual proprietors of land whose lands have been let in farm, that they shall not regain possession

¹ Short title, the Benares Permanent Settlement (Supplemental) Regulation, 1795, *see* the Repealing and Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I, p. 20.

² The words " and for continuing the Patwarries in the discharge of their ancient functions " were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

³ *Supra*, p. 2.

⁴ Repealed by the N.-W. P. Land-revenue Act, 1873 (19 of 1873), so far as it was in force in the Province of Agra.

(Secs. 3-4.)

of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their leases, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, or in the event of any such farmer or farmers forfeiting his or their leases by falling in arrear, or otherwise, such proprietors of land shall be reinstated on their agreeing to the payment of the assessment which may be required of them, or (according to the nature of the case) to the conditions with respect to the arrear that may be due, as specified in clause first, section 18, Regulation VI, 1795,¹ and no alteration shall afterwards be made in the said fixed annual assessment; but such proprietors of land, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever.

3. In the event of the proprietary right in lands that are or may become the property of Government being transferred to individuals, such individuals and their heirs and lawful successors shall be permitted to hold the lands at the assessment at which they may be transferred for ever.

Jama at which Government lands may be transferred to individuals, fixed for ever.

4. *First.*—The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment, in consequence of the improvement of their respective estates.

Proprietors expected to improve their estates.

Second.—To discharge the revenue at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their pattidars, under-renters, and raiyats, are duties at all times indispensably required by Government from the proprietors from whom the revenue is immediately receivable: and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

Conduct to be observed by proprietors towards their pattidars, under-renters and raiyats.

The Governor General in Council therefore expects that the aforesaid proprietors of land will not only act in this manner themselves towards their pattidars, under-renters and raiyats, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them, in whatever instances there may be occasion for such delegation of trust.

¹ Repealed by the N.-W. P. Land-revenue Act, 1873 (19 of 1873), so far as it was in force in the Province of Agra.

Government
to enact
Regulations
for welfare
of cultivators.

5. First.—It being the duty of the Ruling Power to protect all classes of people, and more particularly those who from situation are most helpless, the Governor General in Council, whenever he may deem it proper, will enact such Regulations as he may think necessary for the protection and welfare of the pattidars, under-renters, raiyats and other cultivators of the soil; and no taluqdar, zamindar or other proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they may have respectively agreed to pay.

Internal
duties to be-
long to Gov-
ernment.

Second.—The Governor General in Council having, on the 26th December, 1787, directed the saiyar collections to be abolished, and a subsequent settlement having been made with the proprietors of land, exclusive of the articles of collection given up by that abolition, he now declares that if he shall hereafter think it proper to re-establish the saiyar collections or any other internal duties and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

Jama assessed
on alienated
lands held
under invalid
titles.

Third.—The Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles. The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

Police-lands
eventually re-
sumable by
Government.

Fourth.—The jama of those zamindars, taluqdars and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with and exclusive of the produce of any lands set apart for the maintenance of pharis, pasis, goraits or other description of watchmen, employed in services of police; and the Governor General in Council reserves to himself the option of resuming the whole or part of the produce of such lands, should he at any time hereafter think fit to exonerate the proprietors of the land from being responsible for the police, and to appoint officers on the part of Government to perform the duties relating to the police now required from them. The Governor General in Council, however, declares that the produce of lands which may in that case be resumed will be appropriated to no other purpose but that of defraying the expense of the police or providing a maintenance for the pharis, pasis, goraits or other description of watchmen employed therein.

Estates of
dispossessed
proprietors
not liable to
sale for arrears

Fifth.—Nothing in this or any other Regulation shall be construed to render the lands of which there are dispossessed proprietors, liable to sale for any arrears which have accrued, or may accrue, on the jama that has been or may be assessed upon their lands, under the Regulations for the quinquennial

(Secs. 6-7.)

and decennial settlements, provided that such arrears have accrued, or may accrue, during the time that they have been, or may be, dispossessed of the management of their lands.

of assessment
accruing
whilst they
are deprived
of manage-
ment of them.

It is to be understood, however, that whenever all or any of the descriptions of dispossessed landholders shall be permitted to assume or retain the management of their lands, in consequence of the ground of their dispossession no longer existing, or of the Governor General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the jama that has been or may be assessed upon them in perpetuity, from the time that the management may devolve upon them.

6. That no doubt may be entertained, whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the taluqdars, zamindars and other actual proprietors of land that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, their proprietary right in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer; and that all such transfers will be held valid, provided that they be conformable to the Muhammadan or Hindu laws (according as the religious persuasions of the party or parties making such transfer may render the validity of it determinable by the former or the latter code), and that they be not repugnant to any Regulations now in force, which have been passed by the British Administrations, or to any Regulations that they may hereafter enact.

Proprietors
declared pri-
vileged to
transfer lands
without sanc-
tion of Gov-
ernment.

Proviso.

7.¹ From the limitation of the public demand upon the lands, the net income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property, for the assessment on which a distinct engagement has been or may be entered into between Government and the proprietor, or that may be separately assessed, although included in one engagement, with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed jama assessed upon it (which agreeably to the foregoing declarations, is to remain unalterable for ever; to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management.

Rules for
apportioning
jama in case
of sale,
transfer or
partition.

¹ So much of s. 7 as relates to the adjustment of the Government jama on lands exposed to public sale in satisfaction of decrees was repealed by Act 4 of 1846.

But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one or in two or more lots, or of its being joint-property, and a division of it being made among the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed jama with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained.

The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it in any of the cases above specified to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector of the revenue, or such other officer as Government may in future prescribe, in order that the fixed jama assessed upon the whole estate may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the jama charged thereon, may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land.

And the Governor General in Council declares that if the parties to such transfers or divisions shall omit to notify them to the Collector of the revenue of the province, or such other officers as may be hereafter prescribed for the purposes before mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jama assessed upon it, in the same manner as if no such transfer or division had ever taken place.

First.—In the event of the whole of the lands of a zamindar, taluqdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations above-mentioned, being exposed to public sale by order of the Governor General in Council for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce as the

fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold them at the jama at which they may be so purchased for ever.

Second.—When a portion of the lands of a taluqdar, zamindar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regulations before-mentioned, shall be exposed to public sale by order of the Governor General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a Court of Justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce.

If the lands sold shall be disposed of, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce.

The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one lot, or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter enact; and the purchaser or purchasers of such lands, and his or her or their heirs or successors, will be allowed to hold them at the jama at which they may be so purchased for ever; and the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her or their possession, will continue unalterable for ever.

Third.—When a taluqdar, zamindar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce as the assessment upon

the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt; and the person or persons to whom such lands may be transferred, and his or her or their heirs and lawful successors, shall hold them at the jama at which they may be transferred for ever; and where only a portion of such estate shall be transferred, the amount of the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate on account of the lands that may remain in his or her possession, shall be continued unalterable for ever.

Fourth.—Whenever a division shall be made of lands the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed jama assessed upon the whole of the estate divided may bear to the whole of its actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the jama which may be so assessed upon them for ever.

Lands of ancient proprietors excluded under Regulation II, 1795, s. 12, not liable to be sold at public sale.

8. Nothing in this or any other Regulation passed previous to or on this date shall be construed to authorize the public sale of the lands in any taluqdari or zamindari whilst the party or parties claiming the same, as the ancient proprietors, continue to stand excluded under the limitation specified in section 12, Regulation II,¹ 1795; or until, by the operation of the repeal of that limitation under section 3, Regulation I, 1795,² or in pursuance of the consequent provision in section 18, Regulation VI,¹ 1795, or some other consonant rule made, or that shall hereafter be made, in consequence of the said repeal, such party or parties shall have been restored to the management of the revenue of his or their respective taluqdaris or zamindaris.

9. [*Rules as to patwaris.*] *Rep. by Ben. Reg. XII of 1817.*

Definition of proprietor or

10. For the sake of precision it is hereby declared that wherever the term proprietor or actual proprietor of any taluq, zamindari, village or other land

¹ Ben. Regs. 2 and 6 of 1795 were repealed by the N.-W. P. Land-revenue Act, 1873 (19 of 1873), so far as they were in force in that Province.

² *Supra*, p. 2.

(Secs. 1-2.)

paying revenue to Government is or may be used in this or any other Regulation extending to the Province of Benares, * * * *^{*1} such term is to be considered as applying to the person, or persons holding under each separate lease or patta from Government (whether he or they possess the entire proprietary right in such lands, or shall be only the principal amongst other pattidars, distinct or common), whose name or names standing inserted in such pattas, and who, having executed the counterpart kabuliyats, has or have thereby become immediately responsible to Government, as well for the payment of the revenue as for the performance of the other stipulations and conditions contained in the quartennial and decennial deeds of settlement, without, however, affecting or prejudicing the rights, distinct or common, of any pattidars or sharers where any such shall exist, and which, in case of dispute with the pattadars or holders of the pattas, are to be determined by the Courts of Adalat, according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of justice, and the laws, customs and usages of the district, * * * *^{*1} as far as regards the parties in question.

actual proprietor of land.

BENGAL REGULATION XLIV OF 1795.²

[APPLIES TO THE PROVINCE OF AGRA.]

[28th August, 1795.]

A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan Laws with regard to the Inheritance of landed property subject to the payment of revenue to Government in the Province of Benares.

1. On grounds similar to those stated in the preamble to Regulation XI, 1793,³ for removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government, in the Provinces of Bengal, Behar and Orissa, the following rules have been enacted for the Province of Benares.

Preamble.

2. After the first day of the Fasli year 1204, if any taluqdar, zamindar or other actual proprietor of land shall die without a will, or without having

Descent of landed

¹ The words and figures "and printed and published in the manner prescribed in Regulation XLI, 1793" after the word "Benares" and the words and figures "as referred to in Regulation II, 1795," after the word "district" were repealed by the Repealing Act, 1874 (16 of 1874).

² Short title, the Benares Inheritance Regulation, 1795, see the Repealing and Amending Act, 1903 (I of 1903), s. 2, Bengal Code, Vol. I, p. 20.

³ The Bengal Inheritance Regulation, 1795, see Bengal Code, Vol. I, Ed. 1889, p. 33.

property after
1st July,
1794.

declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who, by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion), may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

Estate how
held on death
of actual
proprietor.

3. If any taluqdar, zamindar or other actual proprietor of land shall die subsequent to the period specified in section 2 without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who, by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion), shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the rule contained in that section, such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate.

If one or more or all of the sharers shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in Regulation XXV, 1793,¹ and such sharer or sharers shall have the separate possession of such share or shares accordingly.

If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

Shares held
separate how
assessed.

4. It is to be understood that, if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public jama charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the rules prescribed in section 7, Regulation XXVII, 1795.²

Commence-
ment and
operation of
Regulation.

5. Nothing contained in this Regulation is to be construed to entitle any person to a share of an estate which may be now held entire by any individual, or that may devolve entire to any individual prior to the beginning of the Fasli year 1204, in exclusion of the other heirs of the last proprietor, under the custom in virtue of which such individual may so hold or succeed to the whole of such estate, and for the future abolition of which this Regulation is enacted, but such person or persons are to be considered bound, in the cases specified in clause 10, section 35, Regulation XXII, 1795,³ by what they had acquiesced in.

¹ Ben. Reg. 25 of 1793 was repealed by Ben. Reg. 19 of 1814.

² *Supra*, p. 8.

³ Ben. Reg. 22 of 1795 was repealed by the Repealing Act, 1868 (8 of 1868).

6. Nor to prohibit any actual proprietor of land bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the Fasli year 1204, his or her landed estate entire to his or her eldest son or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper: Provided that the bequest or transfer be not repugnant to any regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindu or Muhammadan law; and that the bequest or transfer whether made by a will or other writing, or verbally, be authenticated by or made before, such witnesses, and in such manner, as those laws and regulations respectively do or may require.

Saving of
bequests and
transfers.

BENGAL REGULATION V OF 1799.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[3rd May, 1799.]

A Regulation to limit the interference of the Zila² * *
Courts of Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate.

1. Doubts having been entertained to what extent, and in what manner, the Judges of the Zila * *³ Courts of Diwani Adalat in the Provinces of Bengal, Behar Orissa and Benares are authorized to interfere in cases wherein the inhabitants of the above provinces may have left wills at their decease and appointed executors to carry the same into effect, or may have died intestate, leaving an estate real or personal; with a view to remove all doubts on the authority of the Zila * *³ Courts in such cases, and to apply thereto, as far as possible, the principle * * * * *⁴ that in suits

Preamble

¹ Short title, the Bengal Wills and Intestacy Regulation, 1799, see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI. Ben. Reg. 5 of 1799 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra, except as regards the Scheduled Districts. It has been declared, by notification under the scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Tarai Parganas—see Appendix, pp. 1002, 1014, 966 and 985.

As to transfer of proceedings under this Regulation, see the Bengal, N.-W. P. and Assam Civil Courts Act, 1887 (12 of 1887), s. 23, *infra*, p. 373.

² The words “and City” were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

³ The words “and City” in s. 1 were repealed by the Repealing Act, 1874 (16 of 1874).

⁴ The words and figures “prescribed in section 15 of Regulation 4, 1793, *viz.*,” were repealed by the Repealing Act, 1874 (16 of 1874).

(Sect. 2-3.)

regarding succession and inheritance the Muhammadan laws with respect to Muhammadans, and the Hindu laws with regard to Hindus, be the general rules for the guidance of the Judges; the Vice-President in Council has passed the following Regulation, to be considered in force from the period of its promulgation in the above provinces respectively.

Estates of
Hindus,
Muhamma-
dans and
others, not
being dis-
qualified land-
holders, leav-
ing wills.

2.¹ In all cases of a Hindu, Mussulman or other person subject to the jurisdiction of the Zila * * * Courts, having at his death left a will and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder, subject to the superintendence of the Court of Wards * * * * *,³ the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to the Judge of the Diwani Adalat or any other officer of Government, for his sanction; and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust or otherwise, when they are to take cognizance of such complaint in common with all others of a civil nature * * * * *.⁴

Estates of
persons dying
intestate.

3. In case of a Hindu, Mussulman or other person subject to the jurisdiction of the Zila * * * Courts, dying intestate, but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age and competent to take the possession and management of the estate, or if under age or incompetent, and not under superintendence of the Court of Wards, his guardian, or nearest of kin, who by special appointment or by the law and usage of the country may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred * * * * *.⁷

¹ So much of s. 2 as restricts the interference of the Civil Courts in cases of inheritance by minors was repealed by Act 40 of 1858.

² The words "and City" in s. 2, were repealed by the Repealing Act, 1874 (16 of 1874).

³ The words "under any Regulation relative to the jurisdiction of the Court of Wards" were repealed by the Repealing and Amending Act, 1903 (I of 1903), s. 4.

⁴ The rest of the section, which directs the Courts how to proceed when a regular complaint is made before them, was repealed by the Repealing Act, 1874 (16 of 1874).

⁵ So much of s. 3 as restricts the interference of the Civil Courts in cases of inheritance by minors was repealed by Act 40 of 1858.

⁶ The words "or City" were repealed by the Repealing Act, 1874 (16 of 1874).

⁷ The words "when they are to proceed thereupon according to the general Regulations" were repealed by the Repealing and Amending Act, 1903 (I of 1903), s. 4.

(Secs. 4-6.)

4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir.

If there be more heirs than one to estate of intestate.

But if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may, on investigation, be found entitled to succeed thereto.

¹ 5. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

In what cases Judge may appoint administrator for care and management of estate of intestate.

¹ 6. In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him

Security to be taken from, and allowances paid to, administrators.

¹ Ss. 5 and 6 are modified by the Bengal Attached Estates Management Regulation, 1827 (Ben. Reg. 5 of 1827), *infra*, p. 61.

(subject to the approbation of the Court of Sadr Diwani Adalat, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management.

Procedure in cases of persons dying intestate, leaving personal property to which there is no claimant.

7. The Judges of the Zila * * ¹ Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement in the current languages of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose.

Such advertisement to be published on the spot where the property was found, at the Diwani Adalat kachahri of the zila * * ¹, and, if ascertainable, at the dwelling-place of the deceased * * * * ²; after which, should any person attend and satisfy the Judge of his title to the property, or to receive charge thereof as executor, administrator or otherwise, the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing, an inventory of the property and report of the circumstances of the case is to be transmitted to the [Local Government]³ for [its]⁴ orders.

Saving of jurisdiction of Court of Wards.

8. Nothing in this Regulation is to be understood to limit or alter the jurisdiction of the Courts of Wards in the appointment of managers or guardians for * ⁵ disqualified landholders, * * * ⁵ or in any case wherein a special power may be vested in the Court of Wards * * * * ⁵.

¹ The words "or City" were repealed by the Repealing Act, 1874 (16 of 1874).

² The words "or, if the deceased were an European, in the Calcutta Gazette" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

³ The words "Local Government" were substituted for "Governor General in Council" by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, Bengal Code, Vol. 1, p. 20.

⁴ The word "its" was substituted for "his" by the same Act.

⁵ The word "the" before "disqualified," the words and figures "described in Reg. X, 1793," after "landholders" and the words "by the above or any other Regulation" at the end of section 8, were repealed by the Repealing Act, 1874 (16 of 1874).

BENGAL REGULATION XXXIII OF 1803.¹

[APPLIES TO THE UNITED PROVINCES.]

[24th March, 1803.]

A Regulation for preventing the embezzlement of Public Money and the withholding of Public Papers by the Native Officers of Government in the Provinces ceded by the Nawab Wazir to the Honourable the English East India Company.

1. It being necessary that the Collectors should possess the means of re- Preamble.
covering the public dues and papers from *tahsildars*,² *sazawals*, *amins* and other Native officers withholding the public money, or omitting to attend the Collectors to adjust their accounts, or retaining papers which came into their possession in their official capacity, the Governor General in Council has passed the following rules.

2. *First*.—The Collectors are to take security for the personal appearance of the *tahsildars*,² *sazawals*, *amins*, *diwans*, *sarrishtadars*, *munshis*, *muharrirs*, and all Native officers entrusted with the receipt or payment of public money or the charge of public accounts, who now are, or may be hereafter, employed under them, in their capacity of Collectors of the Revenue. Collectors to take security for personal appearance of certain Native officers.

The surety is to bind himself to produce the officer for whom he may become security before the Collector, whenever his attendance may be required until he shall be discharged from the public service, and shall have received a writing from the Collector signifying that he has no demand upon him on the part of Government, either for money, papers or accounts belonging to the public, that may have been committed to him or come into his possession in his official capacity; and further, that in the event of his not producing such officer, he will be responsible for all demands that the Collector may have upon him for public money, papers or accounts, and be liable to be proceeded against in every respect in the same manner as the officer himself had he been forth coming.

When any such officer is removed or resigns, the Collector is to grant him an acquittal to the above effect, after he shall have delivered up all public papers, accounts or money that may have been committed to his charge.

¹ Short title, the United Provinces Native Revenue-officers Regulation, 1803, see the Repealing and Amending Act, 1903 (I of 1903) s. 2, Bengal Code, Vol. 1. p. 20.

For declaration as to Ben. Reg. 33 of 1803 being in force in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (e), *infra*, p. 159.

² The word "*tahsildars*" was repealed by the Repealing Act, 1876 (12 of 1876), but re-inserted for Oudh by Act 18 of 1876, s. 3 (e), *infra*, p. 199.

The Collectors may require such officers to give new sureties, in cases in which they may have ground to believe that the former sureties, whether admitted by themselves or their predecessors, are not responsible.

¹ *Second.*—The responsibility of the sureties of tahsildars extends to the several cases provided for in this Regulation.

Collectors how
to proceed to
recover public
money or
accounts in
possession of
Native
officers.

3. If a Collector shall have a claim on the part of Government on any of the Native officers described in the preceding section, for a balance of accounts, or money or papers belonging to Government, he is to require the payment of the money or the delivery of the papers, by a writing under his official seal and signature, and the signature of his Diwan or other head Native officer of his daftar for the time being, specifying the amount of the money, or the particular papers required, and the date and place that may be fixed for the delivery of the money or papers.

If the officer shall not discharge the money or deliver up the papers by the limited time, the Collector is empowered to apprehend him, and convey him to the gaol of the *Diwani Adalat of the Zila, the Judge of which Court shall detain him* ² in confinement until the sum demanded of him shall be discharged, or he shall have delivered up the papers.

The Collector is authorized, likewise, to attach such part of the *real or personal* ³ property belonging to the officer as may be sufficient to make good the sum which may be due from him.

If his property shall be in another zila, he is to apply to the Collector of that zila, who shall cause it to be attached.

If the property shall be situated within any other jurisdiction, the Collector is to apply to the Judge of the zila, through the vakil of Government, to make application to the Judge of such jurisdiction to attach and deliver it into the charge of the nearest Collector.

The Board of Revenue are empowered to order the property to be sold under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue.

¹ The original second clause which was repealed by the Repealing Act, 1876 (12 of 1876), was as follows:—

"Second.—The security which the tahsildars appointed under Regulation XXVII of 1803, are required to give by clause seventh, section II of that Regulation, precludes the necessity of demanding any further security from tahsildars of the above description under the present Regulation. The responsibility of the sureties of such tahsildars is accordingly declared to extend to the several cases provided for in this Regulation."

The clause as it now stands was added to the Regulation on its being declared in force in Oudh and applies to Oudh only, see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (e), *infra*, p. 199.

² In Oudh, read "District, where he shall be detained," for the words printed above in italics see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (c) *infra*, p. 199.

³ In Oudh, read "moveable or immoveable," instead of "real or personal," see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (e).

(Secs. 4-5.)

In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the Collector is to proceed against his heirs, by a regular suit in the Court to which they may be amenable, for any claims which Government may have upon the deceased.

The suit is to be carried on by the vakil of Government and at the public expense, and the rules in Regulation XXVII, 1803,¹ regarding suits so carried on by the Collectors, are to be held applicable to it.²

4. If any such Native officer who may have retained public money or papers in his possession shall abscond or not be forthcoming, the Collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the zila ;

Procedure where officers abscond or are not forthcoming.

or if he shall have taken refuge in any other zila, and the Collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the Collector is to apply to the Judge of the zila to request the Judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended.

The Judge to whom the application may be made is to convey the officer in safe custody to the gaol of the zila from which he may have absconded.

5. If a Collector shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by writing to that effect, under the official seal and signature of the Collector, to be fixed up in his kachahri and at the place in the zila at which the officer may have last resided, the Collector is empowered to prepare the most accurate statement that he may be able of the money or papers in the possession of such officer, and proceed against the surety, upon his engagement, for the balance or papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer ;

Procedure where officer absconds without having adjusted his accounts, or refuses to attend for that purpose.

or he may cause the officer to be apprehended by his own authority under section 3, if he be within the limits of the zila, or, if he shall have taken up his abode in any other zila or jurisdiction, by application to the Judge, in the manner directed in section 4.

If it should afterwards appear, upon inquiry before the Court, that no part, or a portion only, of the sum demanded was due from him or that the papers required were not in his possession, the Collector shall not be liable to pay any

¹ So much of Ben. Reg. 27 of 1803 as was unrepealed at the time the N.-W. P. Land-revenue Act, 1873 (19 of 1873), was passed was repealed by s. 2 of that Act in the Province of Agra.

² In Oudh the italicised words and figures are repealed, see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (e), *infra*, p. 199.

damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.

Officers or
sureties con-
fined for de-
mand of
money when
to be released.

6. If any such officer or his surety shall be confined on account of a claim for public money, and previous to the sale of his property, or, supposing the Collector not to have been able to get possession of any property belonging to him, at any time subsequent to his confinement, shall deny the justness of the whole or any part of the demand made upon him by the Collector, and find some responsible person who will become security that he will institute a suit in the Court in fifteen days against the Collector to try the demand, and to pay the sum that may be awarded against him with costs and interest at the rate of twelve per cent. from the date on which the sum may be demanded of him to the date of the decree, the Court is to discharge the officer or surety, and proceed to the trial of the suit ;

and, if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded, and the property restored to the owner.

Native officers
or their sure-
ties may sue
Collector
whilst in con-
finement.

7. If any such Native officer or his surety shall be committed to custody by the Collector, and shall not obtain his release in the mode specified in section 6, he shall nevertheless be at liberty, whilst in confinement, to sue the Collector by whom he may have been confined, should he deem the demand upon him unjust.

Collectors to
appoint au-
thorized vakil
to defend
suits.

¹ 8. The Collectors are to appoint one of the authorized vakils of the Courts to defend any suits which may be instituted against them by any such Native officers or their heirs or sureties, under this Regulation ; and all the rules in Regulation XXVII, 1803,² regarding suits instituted against the Collector for sums demanded or received by him on behalf of Government are to be considered applicable to such suits.

¹ In Oudh s. 8 is repealed, see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (e), *infra* p. 199.

² So much of Ben. Reg. 27 of 1803 as was unrepealed at the time the N.-W. P. Land-revenue Act, 1873 (19 of 1873), was passed was repealed by s. 2 of that Act in the Province of Agra.

BENGAL REGULATION X OF 1804.¹

[APPLIES TO THE UNITED PROVINCES.]

[14th December, 1804.]

A Regulation for declaring the Powers of the Governor General in Council to provide for the immediate Punishment of Certain Offences against the State by the Sentence of Courts-martial.

² 1. Whereas, during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same, and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any Power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, the Governor General in Council should declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government, who may be taken in arms, in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified; the following Regulation has been enacted by the Governor General in Council, to be in force throughout the British territories

Preamble.

¹ Ben. Reg. 10 of 1804 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Terai Pargannas, see Appendix, pp. 1002, 1014, 967 and 985.

The Regulation was declared by s. 3 (e) of the Oudh Laws Act, 1876 (18 of 1876), *infra*, p. 199, to be one of the laws to be administered by the Courts in Oudh.

Short Title, the Bengal State Offences Regulation, 1804, see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

² In the application of the Regulation to Oudh s. 1 is to be omitted, see Act 18 of 1876, s. 3 (e) *infra*, p. 199.

immediately subject to the Government of the Presidency of Fort William, from the date of its promulgation.

Power in time of war to suspend functions of ordinary Criminal Courts, and establish martial law ;

2. The Governor General in Council is hereby * * * *¹ empowered to suspend or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature, within any zila, district, city or other place, within any part of² [the British territories subject to the Government of the Presidency of Fort William], and to establish martial law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government in any part of the territories aforesaid ;

and to direct immediate trial by Courts-martial of lieges offending against this Regulation.

and also to direct the immediate trial, by Courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Lieges convicted by Court-martial of crime specified in section 2 liable to immediate punishment of death ;

3. * * * *³ Any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section and who shall be convicted thereof by the sentence of a Court-martial, during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

and to forfeiture of property.

All persons who shall, in such cases, be adjudged by a Court-martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, ⁴[real and personal], which they

¹ The words "declared to be" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² In its application to Oudh, for the words in brackets, read "the territories under the administration of the Chief Commissioner of Oudh", see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (e) *infra*, p. 199.

³ The words "It is hereby further declared, that" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

⁴ In Oudh, read "movable or immoveable" for the words in brackets, see the Oudh Law-Act, 1876 (18 of 1876), s. 3 (e).

(Sec. 4.)

1806: Ben. Reg. XI.] *Troops Transport and Travellers Assistance.*

(Sec. 1.)

shall have possessed within its territories, at the time when the crime of which they may be convicted shall have been committed.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, * * * * * instead of causing such persons to be tried by Courts-martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary.

Governor General not precluded from causing persons charged with offence to be tried by ordinary Courts.

BENGAL REGULATION XI OF 1806.²

[APPLIES TO THE UNITED PROVINCES.]

[3rd July, 1806.]

A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories * * * * *

*1. Whereas it is expedient to enact into a Regulation, for general information and observance, the rules which have been established by Government at different times (with such amendments as have been deemed necessary) for facilitating the progress of military detachments through the Company's provinces, for ascertaining and defraying any necessary expense incurred for that purpose, and for providing compensation when any material damage may

Preamble.

¹ The words and figures "or before any special Court appointed for the trial of such offences, under Regulation IV, 1799, and Regulation XX, 1803," were repealed by the Repealing Act, 1874 (16 of 1874).

² Ben. Reg. 11 of 1806 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has also been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jauzsar Pawan, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Tarai Parganas—see Appendix, pp. 1003, 1014, 907 and 985.

The Regulation was declared by s. 3 (e) of the Oudh Laws Act, 1876 (18 of 1876), *infra*, p. 199, to be one of the Laws to be administered by the Courts in Oudh.

Such part of the Regulation as authorized Collectors, etc., to give their official aid in procuring coolies for facilitating the march of troops or the progress of travellers was repealed by the Bengal Coolies Impressionment Regulation, 1820 (Reg. 3 of 1820), and in its application to Oudh such part was expressly omitted, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

Short title, the Bengal Troops Transport and Travellers Assistance Regulation, 1806, see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

³ The rest of the title was repealed by the Repealing and Amending Act, 1891 (12 of 1891), s. 2 (f), General Acts, Vol. VI.

⁴ S. 1 of the Regulation is repealed in its application to Oudh, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

be sustained in the cultivation of the country from the march or encampment of troops :

and whereas it has also been judged proper to empower the local officers of police to afford such reasonable assistance as may be required by travellers (whether European or Native) proceeding through their respective jurisdictions, in procuring the means of prosecuting their journeys:

the following rules have been enacted, to be in force throughout the whole of the Provinces subject to the immediate government of the Presidency of Fort William (according as such rules may be applicable to the said Provinces respectively) from the date of their promulgation.

**Notice to be
given to
Collectors and
Magistrates
by officers
commanding
detachments.**

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of [the Company's territories,]² the commanding officer of such detachment or corps is required to give the earliest practicable notice to the [Collectors of the Revenue]³ of the zilas through which the troops are to pass, of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required and a specification of the supplies which will be wanted.

The commanding officer will likewise notify to the [Collectors]* the probable period of the arrival of the troops at the rivers or mals intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them.

Procedure of Collector on notice.

3. *First*.— On receiving the notification mentioned in the foregoing section, the [Collector]⁴ shall immediately issue the necessary orders⁶ to the land-holders, farmers, tahsildars or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise

¹ The rest of the Preamble was repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² In Oudh read "Oudh" for the words "the Company's territories," see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

³ In Oudh read "Deputy Commissioner" for the words "Collectors of Revenue," see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

* In Oudh, read "Deputy Commissioner" for "Collector," see the Oudh Laws Act, 1876, (18 of 1876), Sch. II, *infra*, p. 209.

* In Oudh the words "The commanding officer will at the same time communicate to the Magistrates of the zilas through which the troops are to pass the probable time of the arrival of the troops within their respective jurisdictions" were repealed by the Oudh Laws Act (18 of 1876), Sch. II, *infra* 209. They have since been repealed everywhere by the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

* For power to impose fines for the enforcement of orders under s. 3, see Ben. Reg. 6 of 1825, *infra*, p. 54.

(Sec. 4.)

for enabling the troops to cross such rivers or nalas as may intersect their march, without any impediment or delay.

The [Collector]¹ shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, *coolies*,² boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route.

Should he experience any difficulty in the performance of his duty, he is at liberty to apply for assistance to the nearest police-officer, who is directed to afford his aid in providing the number of persons and of carts and bullocks required.

Police to assist in providing bearers, boatmen, carts and bullocks.

Second.—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current bazar prices of the place at which they may be provided;

Rates for supplies furnished to troops.

and all officers commanding detachments of troops or single corps marching through any part of [the Company's territories]³ are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf, against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

Commanding officers to inquire into, and redress, complaints against persons under their command.

4. *First.*—Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges or other accommodations, by any landholder, farmer, tahsildar or other person conformably to the orders of the [Collector]¹ of the zila, for the purpose of crossing the troops and their baggage over rivers or nalas, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service.

Certificate to be granted by commanding officer when troops are provided with boats, etc.

In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify, generally, the dimensions of the bridges and the materials of which they may be composed.

¹ In Oudh, read "Deputy Commissioner" for "Collector," see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

² Repealed as to coolies, see second footnote, third para., on p. 27, *supra*.

³ In Oudh, read "Oudh" for "the Company's territories," see the Oudh Laws Act (18 of 1876), Sch. II, *infra*, p. 209.

Certificate to be sent to Collector with account.

Second.—The certificate mentioned in the foregoing clause shall be immediately transmitted to the [Collector]¹ of the zila by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified.

Account to be sent by Collector to commanding officer.
Endorsement by commanding officer.

The [Collector]¹ shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Account and vouchers to be sent by Collector with his report to Governor General.

Third.—When the account above mentioned shall be returned to the [Collector],¹ he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the zila ; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the [Local Government].²

After the account shall have undergone the examination and report prescribed for all military contingent charges, the [Local Government]² will pass such final order as may appear proper.

Collector may pay charge if reasonable.

In the meantime the [Collector]¹ is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the land-holder, farmer or other person entitled thereto ; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

Procedure for land-holders, etc., sustaining injury from march or encampment.

5. First.—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of [the Company's]³ troops may march or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained ; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has

Certificate by commanding officer.

¹ In Oudh, read "Deputy Commissioner" for "Collector", see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

² In its application to Oudh, the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209, directed that the words "Chief Commissioner" should be read for "Governor General in Council" ; the words "Local Government" have however since been substituted for them by the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI, and the title "Chief Commissioner" has now merged in that of "Lieutenant-Governor of the United Provinces of Agra and Oudh", see Proclamation No. 9961, dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

³ In Oudh, the words "the Company's" are repealed, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

(Sec. 6.)

been actually committed, together with his opinion respecting the justice and extent of the claim.

Second.—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the [Collector]¹ of the zila (either in person or by his vakil) within ten days from the date of the certificate; but no claim of this description shall be received by the [Collector]¹ after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

Certificate with statement of claim to be presented to Collector within ten days.

The [Collector,]¹ on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue, accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is however declared that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the [Collector]¹ shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

6. Immediately on receiving the notification mentioned in section 2, the [Magistrate]² shall transmit orders to the several police-daroghas, or other local officers of the police through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed [on the part of the Collector]³ in procuring the

Procedure by Magistrate on receiving notice mentioned in section 2.

¹ In Oudh, read "Deputy Commissioner" for "Collector", see the Oudh Laws Act 1876 (18 of 1876), Sch. II, *infra*, p. 209.

² In Oudh, read "Deputy Commissioner" for "Magistrate", see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

³ In Oudh, read "by the Deputy Commissioner" for "on the part of the Collector", see Act (18 of 1876), Sch. II, *infra*, p. 209.

(Secs. 7-8.)

requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

Report to
Commander-
in-Chief by
officers com-
manding
troops on
march.

17. Officers commanding detachments of troops or single corps, on their march through any part of [the Company's territories]¹, are already required, by the general orders issued under date the 1st of February, 1783, to report to the Commander-in-Chief in what manner the troops have been supplied in passing through the districts lying in their route.

In like manner the Collectors are directed to report to the Board of Revenue, * * * *² any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government.

Police em-
powered, in
cases of neces-
sity, to assist
travellers in
prosecuting
their route.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of [the Company's Provinces]³ either on the public service or on his private affairs, and shall be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police to aid him in providing any requisite bearers, *coolies*,⁴ boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

Assistance
how afforded.

On receiving an application of the above nature, the police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons: Provided that a sufficient number of persons who have been accustomed to act as bearers, *coolies*,⁵ or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction.

Persons and
carts and bul-
locks not to
be employed
in furnishing
assistance.

But all police-officers are strictly forbidden, under pain of dismissal from office, * * *⁶ on applications of the above nature, to compel any persons not accustomed to act as bearers, *coolies*,⁵ or boatmen to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks

¹ In Oudh, s. 7 is repealed, see the Oudh Laws Act 1876 (14 of 1876), Sch. II, *infra*, p. 209.

² In Oudh read "Oudh" for the "the Company's territories," see the Oudh Laws Act, 1876, (18 of 1876), Sch. II, *infra*, p. 203.

³ The words "and the Magistrates to report to the Nizamut Adalat, for the information of the Governor General in Council" were repealed by the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

⁴ In Oudh, read "Oudh" for "the Company's Provinces", see Act 18 of 1876, Sch. II, *infra*, p. 209.

⁵ Repealed as to "coolies", see second footnote, third para. on p. 27, *supra*.

⁶ The words "(under the rules prescribed by Regulation V, 1804)" were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

(Sec. 8.)

or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station in the next zila through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

Persons employed to be at liberty to return from first police-station.

The police-officers are further enjoined to be careful that a proper compensation for the bearers, *coolies*,¹ boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

Conditions of assistance to travellers.

For this purpose the police-officers are authorized to adjust the rate of hire to be paid for the bearers, *coolies*,¹ boatmen, carts or bullocks required, and the price of any articles provided; as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

9. [*Wearing of uniforms, &c.*] *Rep. Act XVI of 1874.*

10. [*Trial of military guards by martial law.*] *Rep. Act XII of 1876.*

11 & 12. [*Rules for promulgating Regulations.*] *Rep. Act XVI of 1874.*

13 to 19. [*Rules for supplying military guards or detachments.*] *Rep. Act XII of 1876.*

20. [*Repealing clause.*] *Rep. Bengal Regulation II of 1811.*

¹ Repealed as to "coolies," see second footnote, third para. on p. 27, *supra*.

BENGAL REGULATION XI OF 1812.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[18th July, 1812.]

A Regulation to empower the [Local Government]² to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated ; and, in certain cases, to place and detain any such persons in safe custody ; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

Preamble.

1. Whereas considerable bodies of persons, being natives of Arakan and ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier ;

and whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava ;

and whereas it is, in consequence, necessary that the [Local Government]² should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being natives of foreign countries, or

¹ Ben. Reg. 11 of 1812 was declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (11 of 1874), to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, *see* Appendix, pp. 1003 and 1014.

Short title, the Bengal Foreign Immigrants Regulation, 1812, *see* the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

² The words "Local Government" in the title and in section 1 were substituted for "Governor General in Council" by the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

(Secs. 2-3.)

their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated ;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences ;

the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.

2. Whenever the [Local Government],¹ upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the [Local Government]¹ to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence.

Power to order removal of emigrants to parts of country deemed convenient.

In like manner, it shall be competent to the [Local Government]¹ to order such removal whenever ²[it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated is likely to cause any serious misunderstanding between that State and the British Government.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper :

Emigrants allowed to dispose of property.

Provided, however, that, if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [Local Government]¹ to order such property to be sold by public auction under the superintendence of the Collector of the district.

In that case, the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

In cases in which the [Local Government]¹ may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity

Power to order leaders or other emi

¹ The words "Local Government" were substituted for "Governor General in Council" by the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

The word "it" was substituted for "he" by the Burma Laws Act, 1898 (13 of 1898), s. 16, Burma Code, p. 284.

grants to be apprehended and kept under restraint.

of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the [Local Government]¹ to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time as may be deemed by the [Local Government]¹ necessary for the public good.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

5. *First*.—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence, * * * ² and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence * * * ² and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years :

Proviso.

Provided, however, that if the Judge * * ³ by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial [to the Local Government, and the Local Government shall pass such orders thereon as it may think fit]⁴ :

¹ The words "Local Government" were substituted for "Governor General in Council" by the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

² The words "before the Court of Circuit" were repealed by the Repealing Act, 1874 (16 of 1874), General Acts, Vol. II.

³ The words "of Circuit" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

⁴ These words were substituted for the words "to the Nizamat Adalat, who will recommend to the Governor General in Council such abbreviation of the prescribed punishment as they may judge proper" by the Repealing and Amending Act, 1897 (V of 1897), General Acts, Vol. VI.

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the [Local Government]¹ from the exercise of the power vested in the Government by section 4 of [this Regulation]².

BENGAL REGULATION XX OF 1817.³

[APPLIES TO THE PROVINCE OF AGRA.]

[7th October, 1817.]

A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of daroghas and other subordinate officers of Police * * * * *⁴.

1 to 8. [*Preamble ; local extent ; repeals ; appointment and removal of police-officers ; rank and functions of officers on thana establishments ; seal ; police-accountrements ; police-officers at outposts ; leave rules ; thana records.*] *Rep. Act XVI of 1874.*

9. [*Police returns, &c., to be sent to Magistrates or Superintendents.*] *Rep. Act XVII of 1862.*

10 & 11. [*Transmission of official papers ; prohibition of irregular practices.*] *Rep. Act XVI of 1874.*

12 to 20. [*Charges not cognizable by police ; duties of officers on receiving charges ; rules for holding inquests ; inquiries into cases of heinous offences ; search for stolen property ; duties of police with regard to coiners and utterers of base coin ; riots ; treatment of prisoners ; notorious offenders and vagrants.*] *Rep. Act XVII of 1862.*

21. [*Village-watchmen.*] *Rep. Act XVI of 1873.*

22 to 26. [*Concurrent jurisdiction of police-daroghas ; prosecutors and witnesses ; summons ; arrest and bail ; resistance or evasion of criminal process.*] *Rep. Act XVII of 1862.*

27. [*Distrainment for arrears of land rent.*] *Rep. Act X of 1859.*

28. [*Abkari.*] *Rep. Act XII of 1876.*

¹ See first footnote on p. 36, *supra*.

² The words "this Regulation" were substituted for "the said Regulation" by the Repealing and Amending Act, 1903 (I of 1903), s. 3, Bengal Code, Vol. I, p. 20.

³ Short title, the Bengal Police Regulation, 1817, see the Repealing and Amending Act, 1903 (I of 1903), s. 2, Bengal Code, Vol. I, p. 20.

⁴ The words "for modifying the existing Rules concerning the Resistance or Evasion of Criminal Process, and for requiring further aid to the Police in certain cases, from Proprietors and Farmers of Land and their Local Managers, as well as from the Mundals and other Heads of Villages" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

EXECUTION OF CRIMINAL PROCESS IN THE [OPIMUM DEPARTMENT]¹, AND DUTIES OF DAROGHAS RELATING TO [THAT DEPARTMENT]².

Security for appearance of persons employed under Opium Department accused of bailable offences.

29. *First.*—In all bailable cases, where it may be necessary, under the provisions of this Regulation, to summon or apprehend any * * * *³ officer or person * * * *³ employed in the * * * *³ Opium Department, the daroghas of police shall transmit the summons or warrant, under a sealed cover, addressed to the * * * *³ Opium Agent, or the head Native officer of the arang, kothi or chauki, who will either give or direct sufficient security to be given for the due attendance of the party, certifying on the back of the process the manner in which it has been served, and by whom the security has been given, or causing the defendant to accompany the officer bearing the darogha's process to the thana.

In such cases accused not, to be forced to appear till after manufacturing season.

Second.—In cases of bailable nature, in which a person under engagements, and employed in the * * * *⁵ Opium Department, may be summoned under the provisions of the preceding clause during the manufacturing season, the darogha of police shall, with the view of preventing unnecessary interruption to the manufacturer, require the party summoned to appear in person or by wakil, either during or after the manufacturing season, as the circumstances of the case may dictate, subject to the future orders of the Magistrate, to whom the darogha shall in each instance report the reasons which may have influenced him in the exercise of the discretion here vested in him.

Rule for serving summonses on witnesses employed in

Third.—Summonses to * * * *⁶ any officers or persons * * * *⁷ employed in the * * * *⁸ Opium Department, to attend as witnesses, shall be served in the manner directed by the preceding clauses of this section; but the * * * *⁹ Opium Agent, or the head Native officer of

¹ The words "Opium Department" were substituted for "Commercial, Salt and Opium Departments" by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² The words "that Department" were substituted for "those Departments" by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

³ The word "weaver" after the words "apprehend any", the words "engaged in the provision of the Company's investment or" after the word "person", the word "commercial" after the words "employed in the" and the words "commercial resident" after the words "addressed to the", were repealed by the Repealing Act, 1874 (16 of 1874).

⁴ The words "manufacturer, molungee or any" before "officer," and the words "Salt or" before the word "opium" in both the places in which it occurs in the first clause of the section were repealed by the Repealing Act, 1876 (12 of 1876).

⁵ The words "Commercial" and "Salt or" were repealed by the Repealing Acts of 1874 and 1876 (16 of 1874 and 12 of 1876), respectively.

⁶ The word "weavers" and the words "manufacturers, molungees or to" were respectively repealed by Acts 16 of 1874 and 12 of 1876.

⁷ The words "engaged in the provision of the Company's investment or" were repealed by Act 16 of 1874.

⁸ The word "Commercial" and the words "Salt or" were respectively repealed by Acts 16 of 1874 and 12 of 1876.

⁹ The words "Commercial Resident" and the words "Salt or" were respectively repealed by Acts 16 of 1874 and 12 of 1876.

the arang, kothi or chauki, shall, instead of requiring the person summoned to give security or proceed to the thana, take from the witness a recognizance agreeable to the form No. 13 of the Appendix¹, and shall deliver the same to the officer serving the process.

Fourth.—If a charge shall be preferred to a police-darogha against any * * * * *² officer or person * * * * *³ employed in the * * * * *⁴ Opium Department for an offence that is not bailable and there shall appear to the darogha of police sufficient ground under the provisions of this Regulation for apprehending the person so charged, the warrant for his apprehension shall require him to attend immediately in person, and shall be executed in the same manner as upon persons not so employed.

the Company's arangs, and form of their recognizance.

Warrants for offences not bailable to be served upon persons so employed, as upon others.

But the darogha, after securing the offender, is to give notice of his apprehension to the * * * * *⁵ Opium Agent, or to the head officer of the nearest arang, kothi or chauki, as the case may be.

The darogha giving notice to Agent.

Fifth to Eighth.—[*Illicit salt.*] *Rep. Act VIII of 1875.*

Ninth.—All officers of police are strictly enjoined, under pain of dismissal from office, to assist in suppressing the illicit cultivation, manufacture, sale, purchase, importation, transportation or possession of opium * * * * *

Police-officers to suppress illicit cultivation of opium.

Tenth and Eleventh.—[*Illegal cultivation of the poppy.*] *Rep. Act XVI of 1874.*

Twelfth.—Any police-darogha who shall knowingly permit the cultivation of the poppy within his jurisdiction, or who shall be convicted of conniving in any respect at the illicit cultivation of the poppy, shall, besides being liable to dismissal from office for neglect of duty, be further subject, on conviction before the Magistrate of the zila, to the payment of the fine stated in [Act XIII of 1857, section 21]⁷, for whatever quantity of land shall have

Penalty for allowing illicit cultivation.

¹ *Infra*, p. 40.

² The word "weaver" and the words "moluungee, or any other manufacturer or" were respectively repealed by Acts 16 of 1874 and 12 of 1876. The word "any," after the repealed word "or" is omitted as being redundant.

³ The words "engaged in the provision of the Company's investment or" were repealed by the Repealing Act, 1874 (16 of 1874).

⁴ The word "Commercial" and the words "Salt or" were respectively repealed by Acts 16 of 1874 and 12 of 1876.

⁵ The words "Commercial Resident" and the words "Salt or" were respectively repealed by the Repealing Acts of 1874 and 1876 (16 of 1874 and 12 of 1876).

⁶ The words "as required by the provisions of Regulation 13, 1816, which are herein recapitulated for their information and guidance" were repealed by the Repealing Act, 1874 (16 of 1874).

⁷ These words and figures in clause twelfth were substituted for the words and figures "Section XXXI, Regulation XIII, 1816", by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

been so illegally cultivated within his jurisdiction with his knowledge or connivance; and the fine, if not duly paid, shall be computable to imprisonment for a period not exceeding six months.

MISCELLANEOUS RULES REGARDING FORTS, ARMED MEN, MILITARY STORES,
DRESS OF SEPOYS OR LASCARS, AND *¹PUBLIC ROADS * * *¹.

Daroghas to
report
circumstances
appearing
dangerous to
public peace;

30. *First.*—The daroghas of police shall uniformly report to the Magistrates whenever any individuals within their respective jurisdictions may entertain in their service any extraordinary number of armed men, or may commence building or repairing any fort or garhi, or collecting together any quantity of arms, ammunition or military stores.

to apprehend
unauthorized
persons
dressed in
uniform of
Company's
sepoys.

Second.—The daroghas of police are required to apprehend and send to the Magistrate all persons not actually in the Hon'ble Company's military service, or belonging to persons specially exempted by Government from the operation of the rule contained in the section above-mentioned, who may be found dressed in the uniform of the Company's sepoy or lascars, or in a dress so nearly approaching to that uniform as to enable the persons wearing it to impose themselves on the country people for sepoy and lascars.

Third.—[Unauthorized wearing of uniform.] *Rep. Act XVI of 1874.*

Fourth.—[Daroghas to apprehend persons wearing badges.] *Rep. Act XVIII of 1835.*

Daroghas to
report en-
croachments
on public
roads.

Fifth.—The daroghas of police shall prevent all encroachments on the public roads, and shall, at the same time, report the circumstances of each case for the information of the Magistrate, and record an abstract of the same in his thanadari proceedings.

Sixth.—[Arrest of persons dangerously insane.] *Rep. Act XVI of 1874.*

31. [Judges of Circuit and Europeans.] *Rep. Act XVI of 1874.*

32. [Despatches of treasure.] *Rep. Act XII of 1876.*

33 & 34. [Rules relating generally to landholders, managers of estates, etc., police of cities.] *Rep. Act XVI of 1874.*

APPENDIX.²

Form No. 13.³

RECOGNIZANCE TO BE TAKEN FROM A WITNESS.

Whereas I _____, inhabitant of _____
have been named as a witness in the case of _____

¹ The word "Badges" before "Public" and the words "and insane persons" after "Roads" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² Forms 1, 4, 5, 7, 9 to 12 and 15 to 21 were repealed by the Repealing and Amending Act, 1891 (12 of 1891), Forms 2, 3, 8 and 14 by Ben. Reg. 7 of 1829, and Form 6 by the N.-W. P. Village and Road Police Act, 1873 (16 of 1873).

³ See s. 29, clause third, *supra*, p. 39.

(Sec. 1.)

I hereby engage to appear before the Magistrate of the zila [or city] of _____, on or before the _____, for the purpose of giving evidence ; in default whereof I hereby further bind myself to pay such fine to Government as the Magistrate may judge proper to impose upon me, as well as any expense that may be incurred in consequence of my non-attendance, for compelling my appearance : in this I will not fail. Dated [according to the current era].

BENGAL REGULATION III OF 1818¹.

[APPLIES TO THE UNITED PROVINCES.]

[The 7th April, 1818.]

A Regulation for the confinement of State Prisoners.²

1. Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection and the security of the British dominions from foreign hostility and from internal commotion occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be undesirable or improper ;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council ;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination or to the manner in which it may be executed :

¹ Ben. Reg. 3 of 1818 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Tarai Parganas—see Appendix, pp. 1003, 1014, 967 and 986.

For declaration as to Ben. Reg. 3 of 1818 being in force in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (c), *infra*, p. 199.

Short title, the Bengal State Prisoners Regulation, 1818, see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

² For further provisions relating to State Prisoners, see the State Prisoners Acts, 1850 and 1858, respectively, (Acts 34 of 1850 and 3 of 1858), General Acts, Vol. I.

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family ;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindars, taluqdars and others [situated within the territories dependent on the Presidency of Fort William]¹ should be attached and placed under the temporary management of the revenue-authorities without having recourse to any judicial proceeding ;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government, the Vice-President in Council has enacted the following rules, [which are to take effect throughout the provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated]¹.

Proceeding
for placing
persons under
restraint as
State prison-
ers.

2. *First*.—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of
warrant.

Second.—The warrant of commitment shall be in the following form :—

To the [*here insert the officer's designation*]².

“Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*] you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor General in Council and the provisions of Regulation III of 1818.

“Fort William, the

“By order of the Governor General in Council.

“A. B.,

Chief Secretary to Govt.”

¹ The words in brackets in ss. 1 and 2 (third) are not in force in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

² As to direction of the warrant, see the State Prisoners Act, 1850 (34 of 1850), s. 1, General Acts, Vol. I.

(Secs. 3-6.)

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place [within the territories subject to the Presidency of Fort William]¹.

Authority of warrant.

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

Officers having custody of State prisoners to submit periodical reports.

4. ²*First.*—When any State prisoner is in the custody of a zila * *³ Magistrate, the Judges * *⁴ are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of Zila or City Magistrate by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a ⁵[Zila * *⁶ Magistrate] the Governor General in Council will instruct either the ⁵[Zila * *⁶ Magistrate], or the ⁷[Judge] * *⁸ or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

State prisoners in custody of public officer not being Zila or City Magistrate, by whom to be visited.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Representations by State prisoners to be submitted to Government.

6. Every officer in whose custody any State prisoner may be placed shall as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether

Report to Government regarding confinement, &c., of prisoners.

¹ See first footnote on p. 42.

² Clause First is not in force in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

³ The words "or City" were repealed by the Repealing and Amending Act, 1903 (I of 1903), s. 4.

⁴ The words "of Circuit" were repealed by the Repealing Act, 1874 (16 of 1874).

⁵ In Oudh, read "Deputy Commissioner", see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

⁶ The words "or City" were repealed by the Repealing and Amending Act, 1903 (I of 1903), s. 4.

⁷ In Oudh, for "Judge" read "Commissioner of Division", see Act, 1876 (18 of 1876), Sch. II.

The words "of Circuit" were repealed by the Repealing Act, 1874 (16 of 1874).

the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation
of allowance
for support.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoners is duly appropriated to that object.

8. [*Persons already confined as State prisoners.*] *Rep. Act XVI of 1874.*

Attachment
of estates by
order of Gov-
ernment
without deci-
sion of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindar, jagirdar, taluqdar or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, ¹ * * * * ² [*and*] *to the Sadr Diwani Adalat and Nizamat Adalat* ³.

Management
of attached
estates.

*10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khas management.

Attached
lands not
liable to sale
in execution.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government
to arrange for
satisfaction of
decrees.

Third.—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Rules as to
cases where
Government
orders release
of estate from
attachment.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which

¹ The words "to the Provincial Court of Appeal and Circuit and" were repealed by the Repealing Act, 1874 (16 of 1874).

² The word "and" was inserted by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

³ In Oudh, for the words in italics read "and to the Judicial Commissioner", see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

⁴ In Oudh, s. 10 is repealed, see the Oudh Laws Act, 1876 (18 of 1876), Sch II, *infra*, p. 209.

(Sec. 38.)

they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

BENGAL REGULATION XI OF 1822.¹

[APPLIES TO THE UNITED PROVINCES.]

[22nd November, 1822.]

A Regulation * * * *² for declaring Government not to be liable for any errors or irregularities in the proceedings of the Courts of Justice, and for making further provision for the conduct of the Revenue-officers in certain cases.

1, 2. [*Preamble ; repeals.*] *Rep. Act XIX of 1873.*

3 to 35 [*Preamble ; repeals ; public sale of lands for arrears of revenue.*] *Rep. Act XII of 1841.*

36. [*Management of estates purchased by the Government.*] *Rep. Act XIX of 1873.*

37. [*Punishment for contempt.*] *Rep. Act XII of 1841.*

³ 38. It is hereby declared and enacted that Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding or decree deemed to be erroneous or irregular.

Government
not liable for
errors of
Courts.

Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding or decree of a Court as aforesaid ;

and if any person or persons shall sue Government, or any officer of Government, for anything done or suffered under an order, proceeding or decree of Court as aforesaid, such person or persons shall be nonsuited, with costs.

¹ Short title, the Bengal Government Indemnity Regulation, 1822, *see* the Repealing and Amending Act, 1903 (I of 1903), s. 2, Bengal Code, Vol. I, p. 20.

² The words "for modifying and explaining the existing Regulations relative to the sale of land for the recovery of arrears of Revenue" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

³ S. 38 of Ben. Reg. 11 of 1822 was declared, by the Laws Local Extent Act, 1874 (15 of 1874) s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District, in Kumaon and Garhwal and in Jaunpur Bawar, and it was extended, by notification under the same Act, to the Tarai Parganas—*see* Appendix, pp. 1003, 967, 1015, and 986.

Section 38 of Ben. Reg. 11 of 1822 was declared by s. 3 (e) of the Oudh Laws Act, 1876 (18 of 1876), *infra*, p. 199, to be one of the laws to be administered by the Courts in Oudh.

The same principle is and shall be held applicable to all orders, proceedings or decrees made, held or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints or informations whatsoever, unless otherwise specially provided.

39. [*Saving of Bengal Regulation 1 of 1821.*] *Rep. Act XII of 1841.*

BENGAL REGULATION VI OF 1823.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[*10th July, 1823.*]

A Regulation for authorizing the institution of Summary Suits to enforce the execution of certain written engagements for the cultivation and delivery of the Indigo-plant, and for declaring certain principles in regard to the same.

Preamble.

1. The poverty of the lower orders in India, and particularly of those employed in agriculture, occasions the general use of borrowed capital for the production of the chief articles of trade and consumption.

The capitalist advances his money, and sometimes the seed likewise, upon a contract to receive the produce of a defined quantity of land, either at a certain fixed price, or at rates to be subsequently determined with reference to the market-price at a specified season; and this system is understood, generally, to prevail, in the province of Bengal, in the cultivation of the plant from which the indigo-dye is extracted.

According to the existing Regulations, if the contracting raiyat should fail to cultivate the land in the manner specified, or, having so cultivated the land, should sell the produce to another, or otherwise defraud his creditor, and fail to execute his contract by delivery of the stipulated article, the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement.

It is usual for the Courts of Justice, in decreeing such causes, to award such limited penalty as may, in each instance, appear to be a fair compensation to the person making the advances, for the non-employment of his capital.

¹ Ben. Reg. 6 of 1823 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar—see Appendix, pp. 1003 and 1015.

Short title, the Bengal Indigo Contracts Regulation, 1823, see the Repealing and Amending Act, 1903 (I of 1903), s. 2, Bengal Code, Vol. I, p. 20.

For further provisions as to indigo-contracts, see Bengal Indigo Contracts Regulation, 1830 (5 of 1830), and the Bengal Indigo-Contracts Act, 1836 (10 of 1836), *infra*, pp. 72 and 79, respectively.

(Sec. 2.)

In the absence, however, of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial officers as to the extent of penalty recoverable on agreements of this nature. * * * *

It seems reasonable also that the person who advances seed and capital, or capital only, for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo-plant produced on that land, when so stipulated in a written engagement between the parties, and especially in cases in which such written engagement may have been duly registered, * * * and that it should not be in the power of a raiyat, who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another.

The system at present in force provides, as above observed, no other remedy for parties injured by this dishonest practice than by a regular action in the Civil Court.

The difficulty and delay of obtaining redress by that course have not unfrequently led to acts of violence, and even to serious affrays, and the more frequent occurrence of such affrays is to be apprehended in consequence of the eager competition which now prevails amongst the indigo-manufacturers in some parts of Bengal, arising from the unusually high price of indigo.

The Governor General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled, and to provide for the more prompt adjustment of disputes and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the province of Bengal from the date of their promulgation.

2. If any person shall have given advances to a raiyat or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo-plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo-plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests, and for the due execution of the conditions of the contract.

When persons making advances for cultivation of indigo-plant, on certain land, have lien or interest in its produce.

¹ The rest of the clause was repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² The words "under the provisions of Regulation XX, 1812" were repealed by the Repealing Act, 1876 (12 of 1876).

Such person
how to pro-
ceed when
he has just
reason to
believe that
raiyat will
dispose of
produce other-
wise than
stipulated.

3. *First*.—If any person, who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading or is about to evade the execution of his contract, by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the Zila * * *¹ Judge * * *¹ within whose local jurisdiction the land stipulated to be cultivated with the indigo-plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bonâ fide* executed by the individual complained against.

Summons for
attendance of
defendant.

Second.—On such petition and original deed of engagement being filed, a summons, or talab chitthi, shall be immediately issued through the nazir in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may in each instance appear reasonable, and which period shall in no case exceed twenty days.

Summons how
served ;

Third.—The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village kachahri or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out.

and public
notice of claim
how given.

By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the Court for that purpose ; and the failure so to attend, before the summary decision be passed, will be held to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

On non-ap-
pearance of
defendant or
other claim-
ants, evidence
to be taken,
and case de-
cided *ex
parte*.

Fourth.—If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed, and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and no other claim be preferred in bar of that of the plaintiff, the Judge * * *² shall,

¹ The words "or City" before "Judge" and the words "or to a Register exercising the powers of a Joint Magistrate" after "Judge" were repealed by the Repealing Act, 1874 (16 of 1874).

² The words "or other officer" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

(Sec. 3.)

after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim, in the same manner as if the defendant had personally appeared.

Fifth.—If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant, proof of the same shall be taken; and if its voluntary execution be established to the satisfaction of the Court, * * * * *¹ and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiving the crop according to the terms of the agreement.

In what cases award shall be passed, adjudging plaintiff's right to produce.

The same principle shall be applied if the engagement be admitted and no satisfactory reason be shown why defendant should not be held to the performance of his contract.

Sixth.—If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed, and the plaintiff shall be made liable to the payment of costs, and such reasonable sum in addition as may seem to the Judge * * * * *¹ a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

If claim be not established, plaintiff to pay costs and compensation to defendant.

Seventh.—If it should appear in the course of the inquiry that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by vakil;

Notice to third parties, in what cases, and their claims how investigated.

and if such person or any third party shall, previously to the decision of the case, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the Judge * * * * *² shall, after such summary investigation as may be necessary, determine whether either of the parties have any just claim to the produce of the land, and, if so, which of them may have the prior and better claim: a preference will of course be given to engagements duly registered * * * * *³.

The result of such investigation shall be recorded, and a decree passed adjudging the question of right between the parties.

¹ The words "or other tribunal trying the case" in clause Fifth and the words "or other officer trying the case" in clause Sixth were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² The words "or other officer trying the case" in clause Seventh were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

³ The words "under the provisions of Regulation XX, 1812" were repealed by the Repealing Act, 1876 (12 of 1876).

Defendant not to be subjected to unnecessary detention.

In what cases order may issue to deliver plant to a party, before summary inquiry completed.

Authority to watch fields and to prevent removal of plant, given to parties in certain circumstances.

Security for rent due to land-holders how provided.

Eighth.—No defendant who may attend under the process described in this section shall be confined in jail, or be in any manner detained longer than may suffice to take his answer to the claim, and to obtain from him such further explanations as the nature of the answer may suggest.

Ninth.—If, pending the summary inquiry in the manner above directed, it shall appear that the plant on the ground is in a state fit to be cut, and will be injured or destroyed if not cut, it shall in such case be competent to the Judge * * * * *¹ to pass an order for the delivery of the plant to either of the parties, provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation ;

the amount of such compensation shall be fixed by the Judge * * * *¹ in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the probable value of such produce when manufactured ; and the amount, when so fixed, shall be carefully recorded on the proceedings.

4. *First.*—Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement ;

and, in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest police-darogha and to claim from him the assistance of the police in preventing such removal ;

it shall, moreover, be the duty of the police-officers, and of all other officers on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.

Second.—In order that the foregoing rule may not operate to the prejudice of the land-holders, who, * * * * *² are authorized to attach the crops for the realization of rents justly due to them, it is hereby provided that, whenever any manufacturer who may have obtained an award under the foregoing rules may cause the plant to be cut and taken away, he shall be held responsible, conjointly with the raiyat, for any arrear of rent which may have been due on account of the specific parcel of ground from which the indigo-plant may have been taken.

¹ The words "or other officer trying the case" and the words "or other person trying the case" in the second clause were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² The words "by the existing Regulations" were repealed by the Repealing Act, 1874 (16 of 1874).

(Secs. 5-6.)

5. *First*.—In cases in which a raiyat who may have received advances and entered into written agreements for the cultivation and delivery of indigo-plant, in the manner indicated in this Regulation, shall have failed to cultivate the ground specified, or, having cultivated it, shall have failed or refused to complete his engagement, or shall have sold, made away with or transferred the produce to another person, the party with whom such agreement was first made shall be at liberty to institute, at his option, either a summary or a regular suit.

Suits by parties injured by breach of contract in regard to cultivation and delivery of indigo-plant.

Second.—If the summary process be adopted, and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him, with interest on the same, and the costs of the summary process.

Judgment to what extent in summary suits.

Third.—[*Judgments in regular suits.*] *Rep. Act X of 1836.*

Fourth.—If no fraud or dishonest dealing be established, and the failure of a raiyat or other contractor to execute the stipulations of his engagement by the delivery of indigo-plant in the manner stipulated be owing to accident, or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest.

Penalty in regular suits where breach of contract not ascribable to fraud or dishonesty.

6. ¹* Investigations under this Regulation shall be conducted according to the form and in the manner prescribed for the conduct of ¹* suits for arrears of rent: * * * * * ¹ it shall ¹ be competent to any person whose claim under a deed of engagement for the cultivation and delivery of indigo-plant may have been set aside * * *¹, or who may be otherwise dissatisfied with the decision passed on [an investigation]², under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled.

Investigations how conducted.

7, 8. [*Stamp-duty.*] *Rep. Act VII of 1870.*

¹ The words "summary" in the first two places where asterisks occur, the passage "they shall be tried by the Judge, or be referred to the Collector of the district, or to the Register. In cases referred to the Collector, that officer (as well as the Register) shall pass a decision on them, instead of sending them back to the Judge with a report, and there shall be no appeal from any summary decision passed by those officers respectively, if regularly made, and in a matter duly cognizable under this Regulation," the word "nevertheless" and the words "by a summary award" were repealed by Act 16 of 1874.

² These words were substituted for the words "a summary investigation" by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

BENGAL REGULATION VII OF 1823.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[30th October, 1823.]

A Regulation for prohibiting Loans by Covenanted Civil Servants from Persons subject to their Official Authority and Influence.

Preamble.

1. Whereas by the existing Regulations all covenanted civil servants of the Company, employed in the judicial and revenue departments of the service, are prohibited from lending money, directly or indirectly, to any proprietor or farmer of land, dependent taluqdar, under-farmer or raiyat, or their sureties; and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence; the following rules have been enacted by the Governor General in Council, and are to be in force from the date of their promulgation throughout the Provinces immediately subject to this Presidency.

Civil servants prohibited from borrowing money from Native officers under their authority, etc.,

2. *First*.—All covenanted civil servants, in whatever department of the public service they may be employed, are henceforward prohibited under pain of dismissal from office from borrowing money from, or in any way incurring debt to, any Native officer under their authority, or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection or dependent of any such Native officer, or from or to any person of whom such Native officer may be known to be or to have been the servant, agent, surety or dependent.

and from other persons officially accountable to them.

Second.—In like manner, and under the like penalty, all officers of Government, being covenanted civil servants, are henceforward prohibited from borrowing money from, or in any way incurring debt to, any manager, guardian, executor, amin, sazawal, gumashta, farmer, mutawalli or other person who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection and dependent of such person.

Third.—[Rules applied to commercial officers.] *Rep. Act XVI of 1874.*

¹ Ben. Reg. 7 of 1823 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Tarai Parganas—see Appendix, pp. 1003, 1015, 968 and 986.

Short title, the Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823, see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

(Secs. 3-8.)

3. ¹[All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service] are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any zamindar, taluqdar, raiyat or other person possessing real property, or residing in, or having a commercial establishment within, the city, district or division to which their authority may extend.

Certain officers prohibited from incurring debt to zamindars and others residing, or having property, within their districts.

4. All persons are prohibited from lending money, or otherwise becoming in any way creditor, to any officer of Government, being a covenanted civil servant, in contravention of the above rules :

Penalty for lending money to civil servants.

and any person lending money, or in any way becoming creditor, to any such public officer in breach of this prohibition shall forfeit to Government a sum equal to the amount for which he shall have so legally become creditor.

5. [*Report by officers in debt.*] *Rep. Act XVI of 1874.*

6. * * *² If any covenanted servant, who may be hereafter appointed to any office, shall at the time of such appointment be indebted to any person with whom it would be illegal for him to contract a loan while holding such office, it shall be incumbent on such servant, before entering on the duties of the office, to make known the circumstance to the [Local Government]³; and, failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office.

Penalty for officers receiving new appointments, if indebted to individuals contrary to above rules, omitting to report.

7. [*Penalty on Natives knowingly taking office in contravention of above rules.*] *Rep. Act I of 1903.*

8. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instructions of the ³[Local Government] and shall be conducted by the Superintendent and Remembrancer of Legal Affairs, or by such other officer as ³[the Local Government] may nominate for that purpose ;

Suits for recovery of penalties.

such suits shall be instituted in the * ⁴ Court of the division within which the transaction may have taken place, or the lender may reside, or may possess real or personal property.

¹ These words were substituted for the words "All Judges of Zila Courts, all Magistrates, Joint Magistrates, Registers and Assistants to Magistrates, all Collectors and Deputy Collectors of the land-revenue, all Assistants to such Collectors or other officers, exercising the powers of such Collector," by the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

² The words "In like manner" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

³ These words were substituted for "Governor General in Council" in the first two places and "Government" in the third place by the Repealing and Amending Act, 1897 (5 of 1897) General Acts, Vol. VI.

⁴ The word "Provincial" was repealed by the Repealing Act, 1874 (16 of 1874).

An appeal shall lie from judgments passed in such cases, in like manner as from other judgments passed in original suits, * * *¹ and the judgments shall be enforced under the provisions * * *¹ for the execution of other decrees of the Civil Courts.

BENGAL REGULATION VI OF 1825.²

[APPLIES TO THE UNITED PROVINCES.]

[4th April, 1825.]

A Regulation for rendering more effectual the Rules in force relative to supplies and preparations for Troops proceeding through the British Territories.

Preamble.

1. Whereas it is enacted in the first clause of section 3, Regulation XI, 1806,³ that, on receiving the notification mentioned in the preceding section, relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, tahsildars or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparation of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nalas as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current bazar-prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or nalas, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors, or other public officers acting in that capacity, to enforce their orders in the cases above mentioned, by imposing a fine upon any landholder, tahsildar or other person in the possession or management of land who, after receiving the

¹ The words "by the Provincial Courts" after the word "suits" and the words "of the Regulations" after the word "provisions" were repealed by the Repealing Act, 1874 (16 of 1874).

² Ben. Reg. 6 of 1825 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Janssar Bawar, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Tarai Parganas, see Appendix, pp. 1004, 1015, 968 and 986.

S. 3 (e) of the Oudh Laws Act, 1876 (18 of 1876), declares the Regulation to be one of the laws to be administered by the Courts in Oudh, *infra*, p. 199.

³ *Supra*, p. 27.

requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same; the Governor General in Council has therefore enacted the following rules ¹[to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William].

2. Any landholder, farmer, tahsildar or other person in the possession or management of land, who may have been duly required by a Collector of the land-revenue (or any public officer acting in that capacity) ²[in pursuance of section 3, ³Regulation XI, 1806], to provide supplies for a body of troops about to proceed by land or water through any part of the British territories, or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or nalas intersecting their march, and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect or disobedience, to the satisfaction of the Collector (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case in such amount as the Collector or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand * 4 rupees.

Penalty for zamindars not providing supplies for troops, etc.

3. The Collector, or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by vakil for that purpose;

Collector to make summary inquiry.

if he shall fail to attend, either in person or by vakil, the summary inquiry shall be conducted *ex parte*, and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.

4. The Collector or other officer who may adjudge a fine under this Regulation shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue:

Fine how levied.

¹ The words in brackets are repealed in Oudh, *see* the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

² The words and figures in brackets are repealed in Oudh by the Oudh Laws Act, 1876, (18 of 1876), Sch. II, *infra*, p. 209.

³ *Supra*, p. 27.

⁴ The word "Sikka" was repealed by the Repealing and Amending Act, 1903 (I of 1903), s. 4.

Proviso as to
appeal.

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the Board of Revenue * * * * *¹ and sufficient security be tendered for performing the judgment of the Board upon the appeal, the Collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board.

Petition of
appeal against
fine.

5. Appeals from the orders of Collectors or other public officers adjudging fines under this Regulation may be preferred * * * * *² either immediately to the *¹ Board or through the officer by whom the fine may have been adjudged ; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board.

Limitation of
appeal.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment without proof of sufficient reason for the delay, to the satisfaction of the Board * * * * *³.

BENGAL REGULATION XI OF 1825.⁴

[APPLIES TO THE UNITED PROVINCES.]

[26th May, 1825.]

A Regulation for declaring the Rules to be observed in determining Claims to Lands gained by Alluvion, or by Dereliction of a River or the Sea.

Preamble.

⁵ 1. In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the provinces immediately

¹ The words "in whose jurisdiction the district may be situate" after "Board of Revenue" in s. 4 and the word "proper" before the word "Board" in s. 5 were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

² The words "on the stamped paper prescribed for other appeals to the Revenue Boards" after "preferred" in s. 5 were repealed by the Repealing Act, 1876 (12 of 1876).

³ The words "by whom the case may be cognizable" were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

⁴ Ben. Reg. 11 of 1825 was declared, by s. 7 of the Laws Local Extent Act, 1874 (15 of 1874), General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunpur Bawar, and it was extended, by notification under the same Act, to the Tarai Parganas, see Appendix, pp. 1004, 1015, and 986.

S. 3 (e) of the Oudh Laws Act, 1876 (18 of 1876), declares the Regulation to be one of the laws to be administered by the Courts in Oudh, *infra*, p. 199.

Short title, the Bengal Alluvion and Diluvion Regulation, 1825, see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

⁵ Section 1 of the Regulation is not in force in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

subject to the Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal.

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and, although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described.

The Court of Sadr Diwani Adalat, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws on this subject, called for reports from their law-officers of each persuasion, and on consideration of the reports furnished by the law-officers in consequence, as well as of the decisions which have been passed by the Court of Sadr Diwani Adalat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature; to be in force, as soon as promulgated, throughout the whole of the provinces subject to the Presidency of Fort William.

2. Whenever any clear and definite usage of shikast paiwast, respecting the disjunction and junction of land by the encroachment or recess of a river, may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Claims and disputes as to alluvial lands to be decided by usage when clearly recognized and established.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction ¹[either] of a river ¹[or the sea.]

Where no usage established, claims how decided.

¹ The words in brackets are repealed in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

Land gained
by gradual
accession from
recess of
river or sea.

4. *First*.—When land may be gained by gradual accession, ¹[whether] from the recess of a river ¹[or of the sea], it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamindar or other superior land-holder, or as a subordinate tenure by any description of under-tenant whatever :

Extent of
interest in
increment of
person in
possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under ²[the provisions of Regulation II, 1819,³ or of any other Regulation in force] :

Nor if annexed to a subordinate tenure held under a superior land-holder shall the under-tenant, whether a khudkast raiyat, holding a maurusi istim-rari tenure at a fixed rate of rent per bigha, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.

When river
by sudden
change of
course inter-
sects estate.

Second.—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition, of the land so removed.

In such cases the land, on being clearly recognized, shall remain the property of its original owner.

Chars thrown
up in navi-
gable river.

Third.—When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), ⁴[or in the sea], and the channel of the river ⁴[or sea] between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government.

Property
therein when

But, if the channel between such island and the shore be fordable at any

¹ The words in brackets are repealed in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

² In Oudh, for the words and figures in brackets read "any law in force for the time being", see Act 18 of 1876, Sch. II, *infra*, p. 209.

³ So far as it relates to the Province of Agra, Ben. Reg. 2 of 1819 is repealed, by N.-W. P. Land-revenue Act, 1873 (19 of 1873).

⁴ In Oudh, the words in brackets in the third clause of s. 4 are repealed, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

(Sec. 5.)

season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section with respect to increment of land by gradual accession.

channel
fordable.

Fourth.—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section.

Chars, &c.,
thrown up in
small shallow
rivers.

Fifth.—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion, or by dereliction of a river ¹[or the sea], which are not specifically provided for by the rules contained in this Regulation, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage if there be any applicable to the case, or, if not, by general principles of equity and justice.

Disputes re-
lative to lands
gained by
alluvion or by
dereliction
not provided
for by Regu-
lation.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent ²[Zila * ³ Magistrate], or any other officers of Government, who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

Encroach-
ments on beds
of navigable
rivers, and
other obstruc-
tions.

¹ In Oudh, the words in brackets in the fifth clause of s. 4 are repealed, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

² In Oudh, for "Zila Magistrates" read "Deputy Commissioners", see Act 18 of 1876, Sch. II, *infra*, p. 209.

³ The words "and City" were repealed by the Repealing and Amending Act, 1903 (I of 1903), s. 4.

BENGAL REGULATION III OF 1827.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[1st November, 1827.]

A Regulation for modifying and amending the Rules in force relative to the Law Officers and Ministerial Native Officers of the Courts of Judicature who may be guilty of Corruption or Extortion.

1-4. [*Preamble ; Regulations amended ; no fine to be awarded in Civil Court for corruption or extortion ; criminal prosecution not to depend on civil action.*] *Rep. Act XVI of 1874.*

Record of criminal conviction sufficient for compelling refund of property corruptly taken or extorted.

5. From and after the date of this Regulation it shall not be necessary for any party from whom money or property may have been corruptly taken or extorted to institute a civil action for the recovery thereof ; but, on proof of the charge in a criminal prosecution for those offences, a certified copy of the conviction by ²[the Court] shall be received as sufficient authority for enforcing the refund of the amount or value so taken, with interest, on application to that effect being preferred by the aggrieved party to the Civil Court
* * * * *

6. [*Amount of embezzlement to be paid in first instance from public treasury.*] *Rep. Act XVI of 1874.*

¹ Ben.Reg. 3 of 1827, s. 5, was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of AGRA (then the North-Western Provinces) except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, see Appendix, pp. 1004, and 1015.

Short title, the Bengal Corruption and Extortion Regulation, 1827, see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

The words "the Court" were substituted for the words "a Court of Circuit, or the Nizamut Adalat" by the Repealing and Amending Act, 1903 (1 of 1903), Bengal Code, Vol. I, p. 20. *2001*

² The words "on the stamp-paper prescribed for miscellaneous petitions" were repealed by the Repealing Act, 1876 (12 of 1876).

(Secs. 1-3.)

BENGAL REGULATION V OF 1827.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[27th December, 1827.]

A Regulation for modifying the Rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.

1. Whereas it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue; the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

2. The rules contained in sections 5 and 6, Regulation V, 1799,² * * * *³ regarding the administration and management of estates under orders of the Zila * * * Courts, are hereby declared subject to the following modifications.

3. Whenever the Zila * * * Courts may deem it just and proper, under the provisions of the [Regulation] above mentioned, to provide for the administration or management of landed property, the Court shall issue a precept to the Collector of land-revenue of the District wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof:

Provided, however, that, if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector of the individual to perform the duty in question, or with the conduct of the manager at any

Preamble.

Modification of Regulations regarding management of estates under attachment.
Issue of precept for holding estates under attachment and for appointing managers.

¹ Ben. Reg. 5 of 1827 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces) except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, *see* Appendix, pp. 1004 and 1015.

² *Supra*, p. 17.

³ The words and figures "and clauses 5 and 6, section XVI, Regulation III, 1803" after the figures "1799" were repealed by the Repealing and Amending Act, 1903 (I of 1903), s. 4; and the words and figures "and sections XXVI and XXVII, Regulation V, 1812, and clause third, section V, Regulation VI, 1813" before the word "regarding" were repealed by the Repealing Act, 1874 (16 of 1874).

⁴ The words "and City" in ss. 2 and 3 were repealed by Act 16 of 1874.

⁵ The word "Regulation" was substituted for "several Regulations" by the Repealing and Amending Act, 1903 (I of 1903), s. 3, Bengal Code, Vol. I, p. 20.

time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue, and the Board will either confirm the manager chosen, or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

Precept to
state property
included in
attachment.

4. The precept of the Zila * * Court above mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

BENGAL REGULATION VII OF 1828.²

[APPLIES TO THE PROVINCE OF AGRA.]

[12th September, 1828.]

A Regulation for amending the provisions of ³ Regulation XV, 1795, and for defining the authority of the Raja of Benares in the Mahals therein referred to.

Preamble.

1. By an arrangement concluded in the year 1794 with Raja Mahipnarain Singh, the administration of justice in the jagirs of Bhardoi, Kera Mangror, and that part of pargana Kaswar or Gangapur which is the Raja's family zamindari, so far as relates to matters connected with the revenue, was separately provided for, and in conformity thereto the Courts of Justice were restricted, by ³ Regulation XV, 1795, from taking cognizance of any such causes.

The management of these mahals was committed to the Raja with a view to the maintenance of his honour and dignity, but it was to be conducted in concert with and under the advice of the Collector, and with an appeal direct to the Governor General in Council; an arrangement which was obviously intended to secure to the population the observance of the same principles of administration, and the same recognition of rights, by which the Government had engaged to adhere in its dealings with the rest of its subjects throughout the province.

Inconveniences, however, having been experienced from the absence of specific rules for the guidance of the Raja, in the exercise of the privileges thus conferred upon him, and the system having in other respects failed to

¹ The words "or City" in section 4 were repealed by the Repealing Act, 1874 (16 of 1874).

² Short title, the Benares Family Domains Regulation, 1828, see the Repealing and Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I, p. 20.

³ *Supra*, p. 6.

(Secs. 2-5.)

accomplish the objects intended by it, the following provisions have been enacted, to be in force throughout the whole of the mahals in question from the date of their promulgation.

2. Clause 6, section 17, ¹Regulation II, 1795, section 8, ¹Regulation V, 1795, and ²Regulation XV, 1795, are hereby declared subject to the following modifications.

Regulations modified.

3. The superintendence of the said mahals shall be vested in the Commissioner of the Benares Division, hereinafter called "the Superintendent."

Superintendence of mahals vested in Commissioner.

The Lieutenant-Governor of the North-Western Provinces⁴ may, from time to time, appoint a Deputy Superintendent of the said mahals, and confer upon him all or any of the powers of the Superintendent, to be exercised by him subject to the general control of the Superintendent.

4. The administration of justice in all matters connected with the revenue shall continue to be conducted through the agency of the Raja, under the restrictions herein provided ;

Administration of justice in revenue matters.

but the reservation of this privilege shall not be understood as divesting the population of any of the rights and interests connected with the occupation, possession or transfer of land, whether by sale, gift or inheritance, or the produce of it, which immemorially belong to them, and are enjoyed by similar classes throughout the rest of the province.

Proviso.

5. *First*.—No mufassal or detailed settlement having been formed within the mahals in question by the authority of Government, the assessment of the land, and the settlement of the several villages comprised in them, shall be made through the channel of the Raja, who is to be guided in all matters relative thereto by the general rules in force within the province of Benares applicable to such cases.

Settlement of lands to be made by Raja, under general rules in force.

Second.—In the selection of parties to engage these individuals shall be considered entitled to preference who, had a detailed settlement been extended to these mahals under the Regulations of 1795, would have been recognized as zamindars.

Rules for selecting parties to be admitted to engage for payment of revenue.

Such individuals shall be recorded under the designation of rais, and the

¹ So much of Ben. Regs. II and V of 1795 as was not already then repealed was repealed by the N.-W. P. Land-revenue Act, 1873 (19 of 1873), ss. 1 and 2.

² *Supra*, p. 6.

³ This section was substituted for the original by the Benares Family Domains Act, 1881 (14 of 1881), s. 3, *infra*, p. 253.

The original section ran as follows:—

"3. The superintendence of the mahals above mentioned shall be vested in such officer as the Governor General in Council may, from time to time, by an Order in Council, appoint."

⁴ Now Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* s. 2 of the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527, and Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

⁵ For powers conferred on the Superintendent, *see* N.-W. P. and Oudh Gazette, 1885, Pt. I, p. 136.

tenures so belonging to them shall be considered heritable and transferable, subject to the conditions in regard to the payment of the jama assessed upon them, and under which they may be admitted to engagements.

When there may be no rais entitled to claim admission, or where the latter may refuse to engage on just terms, the settlement shall be made for a fixed period with farmers, unless the Raja should prefer making a raiyatwari settlement, and collecting the public dues, through his own officers, immediately from the raiyats.

Rules for
fixing assess-
ment of mal-
guzari lands.

Third.—The assessment of all lands not entitled to be considered rent-free * * * * *¹ shall be fixed with reference to their produce and capability, as ascertained at the time when the revision of the settlement may be made.

But the assessment shall not be raised above the amount heretofore paid, unless it shall clearly appear that the nett profits derived from the land, by those who may be entitled to share in them, would, under the usage of the province and the rules applicable to such cases, authorize the increase demanded.

Effect of
admission to
engagements
on rights or
interests of
co-sharers or
other tenants.

Fourth.—In admitting particular parties to engagements such parties shall not be considered as invested with any rights over their co-sharers or under-tenants not previously possessed by them, excepting in so far as may be authorized by the Regulations for realizing the public revenue ;

all questions therefore between patidars and sharers, inheriting or claiming to inherit joint or distinct portions of a tenure, or the produce thereof, shall, notwithstanding such admission, be considered open to adjustment on the principles observed in similar cases throughout the province, and all questions regarding the right to possession of khudkast and chhapparbanl raiyats shall be adjusted on the same principles.

Points to be
ascertained
and recorded
on making or
revising set-
tlements.

Fifth.—It shall be the duty of the Raja, on occasion of making or revising settlements of land-revenue in any of the mahals referred to in Regulation XV, 1795,² to unite with the adjustment of the assessment, and the investigation of the extent and produce of the lands, the object of ascertaining and recording all material points connected with the rights, interests and privileges of the various classes of his tenantry.

His proceedings therefore shall embrace the formation of as accurate a record as possible of all persons found in possession of the soil, with a specification of the nature and extent of the interests respectively enjoyed by them.

The record shall likewise specify the rates per bigha of each description of land or kind of produce in every distinct village.

¹ The words and figures " under the rules contained in Regulation XLI, 1795," were repealed by the Benares Family Domains Act, 1831 (14 of 1831). s. 2, *infra*, p. 253.

² *Supra*, p. 6.

(Sec. 6.)

All lakhiraj tenures shall, at the same time, be carefully registered, with a detail of every particular connected therewith.

The proceedings shall likewise contain the names of the patwaris and village-watchmen, with a statement of the amount and nature of the allowance assigned to each.

Sixth.—In cases where two or more persons may possess a joint property in any mahal, or in the rent or produce thereof, or in cases where such property may be separately possessed by parties subject to common obligations, it shall be competent to the Raja either to make a joint settlement with the parties collectively, or with a portion of them selected to undertake the management as village-malguzars; due regard being paid to the wishes of the co-parceners, who, until regularly separated, shall continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue at the rates and in the mode heretofore in use or otherwise provided for by the Regulations for the province of Benares.

Rules for estates held in joint property.

Seventh.—When parties enter into engagements who do not possess the entire proprietary right, but may be elected as managers by the co-parcenary in general, the non-engaging parceners shall not be held answerable for the default of those individuals, save and except the portion of rent or revenue demandable from them respectively.

Responsibility of parties under engagements, and of pattidars and sharers.

The rights and interests, distinct or common, of the pattidars or sharers shall not be prejudiced in other respects by such engagements; and all disputes between the said sharers and the engaging proprietors shall be determined according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of justice, and the laws, customs and usages of the province.

Disputes between them how determined.

6. *First.*—All proprietors of land in the province of Benares, being privileged to transfer to whomsoever they think proper, by sale, gift, mortgage or otherwise, their proprietary right in the whole or any portion of their respective estates, provided that such transfers be conformable to the Hindu or Mubammadan laws, according to the religious persuasions of the parties and to the Regulations in force, it is hereby declared that all such assignments, within the tracts to which this enactment refers, shall be held equally valid subject to the conditions in regard to leases, and the allotment of jama prescribed by the Regulations :

Proprietary rights in land may be transferred by sale, gift, mortgage or otherwise.

Provided always that the same be duly notified to the Raja, otherwise the consequences of omitting to make such notification on similar occasions to the Collector will, in like manner, attach to all such transfers; the rules and restrictions applicable to Collectors being also applied to the Raja subject

Transfers to be notified to Raja.

the orders of the Superintendent, who shall, in this behalf, possess and exercise the powers and authority of the Board of Revenue.

In cases of transfer or inheritance, Raja to record mutation, etc.

Second.—In all cases, either of transfer or inheritance, the Raja, on application being made for that purpose, shall proceed to record the mutation, and shall take such other steps for securing the rights and interests both of the public and of individuals as the Collectors are required to do on similar occasions in the Benares province.

Decision of Raja subject to revision.

7. The decision of the Raja or his officers, on all points connected with the foregoing provisions, shall undergo the revision of the Superintendent to whom the whole of the proceedings on the settlement or transfer of any estate shall be certified, and who, after calling for such further information as may appear necessary, shall confirm, modify or annul the same as he thinks proper. ¹ [The orders thus passed by the Superintendent shall be subject to appeal to, and revision by, the Board of Revenue, whose order thereon shall be final, unless altered or set aside by the said Lieutenant-Governor.]

Rules for realizing public revenue. Enactments in force in the North-Western Provinces for realizing public revenues extended to tracts referred to in Reg. XV of 1795.

8. The following rules are prescribed for the guidance of the Raja and his officers in realizing the public revenue.

9. ² [The enactments for the time being in force in the ³North-Western Provinces] for enabling proprietors and farmers of land to realize their rents with punctuality, for prescribing the process by which the revenue-authorities are to collect the revenue payable to Government from the lands, for the imprisonment of defaulters, and for securing the ultimate recovery of arrears, by a sale of the landed property from which it may be due, are hereby extended, as far as they may be applicable ⁴ [and the Local Government with the concurrence of the Maharaja, may direct], to the tracts referred to in Regulation XV, 1795.⁵

Raja authorized to exercise certain powers of Collector.

10. Exclusive of the powers vested in the Raja as zamindar, by which he may distrain and bring to sale, in the mode prescribed by the Regulations, the personal property of under-zamindars, farmers, raiyats or other description of land-holder, for arrears of rent or revenue, he is hereby, moreover, authorized, as far as regards the collection of the same, to exercise the powers of a Collector, as defined in the Regulations, within the tracts in question, subject

¹ These words at the end of s. 7 were substituted for the words "and the orders thus passed by the Superintendent shall be final, unless altered and set aside by the Governor General in Council" by the Benares Family Domains Act, 1881 (14 of 1881), s. 4, *infra*, p. 253.

² These words at the beginning of s. 9 were substituted for the words "the Regulations at present in force within the Province of Benares" by Act 14 of 1881, s. 5.

³ Now the "Province of Agra," see the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527; and Proclamation No. 996 P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

⁴ These words were inserted by the Benares Family Domains Act, 1881 (14 of 1881), s. 5 *infra*, p. 253.

⁵ *Supra*, p. 6.

(Secs. 11-14.)

to such restrictions and responsibility as may be now or hereafter imposed by this or any future enactment.

¹[The Maharaja may delegate to one or more of his officers the exercise of all or any of the powers vested in him under this section in the whole or any part of the said mahals.]

11. Whenever it may be necessary to resort to the sale of lands for the recovery of arrears of revenue, or whenever a sale of lands may be required in satisfaction of the decrees of the Courts of Judicature, the sale shall be held in the presence of the Raja or his deputy, either in the public kachari or such other open or convenient place within the pargana to which the lands belong as may be specified in the advertisement, and the course of proceeding directed in regard to sales by ²[the enactments for the time being in force in the "North-Western Provinces"] shall be considered applicable, and the validity of such sales held contingent on the fulfilment of the several conditions therein specified.

Sale of lands for arrears of revenue, etc., how held.

12. The whole of the powers which are exercised by the ⁴[Commissioners of Divisions and the Board of Revenue] over the Collectors, in regard to sales of land, as well as in all matters relative to the collection of public revenue, are hereby vested in the Superintendent, and the Raja shall consider himself, in the exercise of the privileges with which he is entrusted, as standing in the same relation towards that officer as the Collectors at present stand ⁴[towards the Commissioner].

Powers of Commissioner and Boards of Revenue, in regard to land-sales and collection of revenue, vested in Superintendent.

13. From the orders of the Superintendent in all such cases there shall be no appeal but to the ⁶[Board of Revenue], and the Civil Courts are not competent to take cognizance of any complaint, from any party soever, contesting the validity of a sale, or claiming rights or interests connected with land, or the rents thereof, within the tracts in question.

Appeal from orders of Superintendent.

14. All complaints of a breach of the rules herein prescribed for the guidance of the Raja and his officers, in the exercise of the powers thereby entrusted to them, or of unnecessary severity in the execution of them, are declared cognizable by the Superintendent, who shall cause substantial justice

Complaints against Raja and his officers for breach of rules.

¹ This clause was added by the Benares Family Domains Act, 1881 (14 of 1881), s. 6, *infra*, p. 253.

² These words were substituted for the word and figures " Regulation XI, 1822, " by Act 14 of 1881, s. 7, *infra*, p. 253.

³ Now the " Province of Agra," see Proclamation No. 996 P., dated the 28th March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

⁴ These words in s. 12 were substituted for the words " Boards of Revenue " and " towards the Board " respectively by Act 14 of 1881, s. 8, *infra*, p. 253.

⁵ These words were substituted for the words " Governor General in Council " by Act 14 of 1881, s. 9, *infra*, p. 253.

to be rendered to the parties in the same manner as would have been done * * *¹ had such complaints been cognizable by the regular Courts :

Provided only that, when the offence alleged would authorize a criminal prosecution, the complaint shall be referred to the Magistrate, who will proceed to the decision thereof * * *¹ in the same manner as if it had been originally preferred to him.

Certain punishments to enforce payment of arrears of rent strictly prohibited.

15. Torture, personal violence and every description of corporal punishment to enforce the payment of arrears of rent or revenue, within the tract in question, are hereby strictly prohibited ; and any one offending against this prohibition shall, on the complaint of a person so punished, be liable to prosecution before the Criminal Courts, and shall be dealt with, on conviction, as the Regulations require in such cases.

Native Commissioners to be maintained by Raja to take cognizance of revenue-causes.

16. In order to secure for the inhabitants of these mahals the administration of civil justice on the principles in force throughout the rest of the Province, * [a Native Commissioner, or two or three Native Commissioners as the said Lieutenant-Governor may, from time to time, direct, shall be maintained by the Maharaja] for the purpose of taking cognizance, in the first instance, of the revenue-causes hereafter specified.

² [The local limits of the jurisdiction of the Native Commissioners shall be determined by the Maharaja, and may be altered by him from time to time.]

Nomination of individuals made by Raja but confirmation to rest with Superintendent.

17. The nomination of individuals to the office of Native Commissioner will be made by the Raja, but previous to such appointments taking effect he shall communicate what information he may have obtained regarding the age, character and past employment of the individuals in question to the Superintendent, who shall withhold his concurrence in cases of notorious bad character or incapacity, having regard however, as far as possible, in the mode of doing so, to the Raja's honour and dignity.

Removal of Native Commissioner from office.

18. No Native Commissioner appointed under this Regulation shall be removed from office without sufficient cause ; and in all cases of removal the Raja shall act in concert with, and by the advice of, the Superintendent.

Liability to criminal prosecution.

19. The Native Commissioners shall be liable to a criminal prosecution for corruption, extortion or other gross misdemeanour ; and on conviction * * *³

¹ The words " under the Regulations " in both places were repealed by the Benares Family Domains Act, 1881 (14 of 1881), s. 2, *infra*, p. 253.

² These words were substituted for the words and figures " a Native Commissioner shall be maintained by the Raja in each of the pergunnahs referred to in Regulation XV, 1795," by Act 14 of 1881, s. 10, *infra*, p. 253.

³ This clause was added to s. 16 by Act 14 of 1881, s. 10.

⁴ The words " before the Court of Circuit " in s. 19 were repealed by the Benares Family Domains Act, 1881 (14 of 1881), s. 2.

(Secs. 20-23.)

shall be subject to fine and imprisonment proportionate to the nature and circumstances of the case.

20. Persons invested with the powers of a Native Commissioner under this Regulation are authorized to receive, try and determine all suits preferred to them against any inhabitant of their respective jurisdictions, relative to land of every description, or the rent, revenue or produce thereof, situated therein * * * * *

Powers and authority of Native Commissioner.

21. In receiving, trying and determining such cases the Native Commissioners shall be guided by the rules ²[prescribed by the said Lieutenant-Governor under section 22 of this Regulation].

Rules for guidance of Native Commissioners.

³ 22. The said Lieutenant-Governor may, from time to time, make ⁴rules consistent with this Regulation—

Power to make rules.

(a) to regulate the procedure and powers of the Native Commissioners and to determine the cases in which, the mode in which, and the authority to or by which, the orders and decisions of such Commissioners shall be subject to appeal or revision; and

(b) to regulate, in matters not hereinbefore provided for, the administration of the Family Domains in so far as it is entrusted to the Maharaja.

Such rules shall, when published in the local Gazette, have the force of law:

Provided that no such rule shall be so published until the opinion of the Maharaja thereon has been taken and considered by the Lieutenant-Governor.

In matters not otherwise provided for by the rules made under clause (a), the Code of Civil Procedure ⁵ shall apply.

³ 23. If, in any suit instituted or appeal presented under this Regulation in any Court, the Judge or presiding officer doubts whether he has jurisdiction, he may refer the matter to the Board of Revenue; and, on any such reference being made, the said Board may order the Judge or presiding officer either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit or appeal.

Procedure in case of doubt as to Judge's jurisdiction.

¹ The words "provided the cause of action shall have arisen within the period of twelve years previously to the institution of suits" at the end of s. 20 were repealed by the Benares Family Domains Act, 1881 (14 of 1881), s. 2, *infra*, p. 253.

² These words and figures were substituted for the words and figures "contained in Regulation XXIII, 1814, and in points not expressly provided for in that Regulation they shall observe as nearly as may be practicable the rules prescribed for the guidance of the Zila and City Courts, in the trial and decision of Civil suits" by Act 14 of 1881, s. 11, *infra*, p. 254.

³ The ss. 22-25 here printed were substituted for the original secs. 22-26 by Act 14 of 1881, s. 12, *infra*, p. 254. For the original sections, see Clarke's edition of the Bengal Regulations published under the authority of the Court of Directors, Ed. 1854.

⁴ For rules regulating procedure of Native Commissioners and for those regarding patwāris and kanungos, see N.-W. P. and Oudh Gazette, 1888, pp. 134 and 141, respectively.

⁵ See now Act 14 of 1882, as modified up to 1st December, 1899.

The order of the said Board on any such reference shall be final.

Operation of
 general Acts.

¹ 24. Except as provided by or under this Regulation, or any other enactment for the time being in force,—

(a) the administration of the Family Domains, in so far as it is entrusted to the Maharaja, shall be regulated by the principles and spirit of the enactments for the time being in force in the ²North-Western Provinces; and

(b) the administration of the said Domains, in so far as it has not been so entrusted, shall be regulated by those enactments.

Interpreta-
 tion-clause.

¹ 25. In this Regulation, unless there is something repugnant in the subject or context,—

“Board of Revenue” means the Board of Revenue of the ²North-Western Provinces, or such officer or officers as may hereafter be lawfully appointed to exercise, within the Province of Benares, the powers of such Board:

“Regulations” includes Acts for the time being in force in the ²North-Western Provinces.

BENGAL REGULATION XVII OF 1829.³

[APPLIES TO THE PROVINCE OF AGRA.]

[4th December, 1829.]

A Regulation for declaring the practice of sati, or of burning or burying alive the widows of Hindus, illegal, and punishable by the Criminal Courts.

Preamble.

1. The practice of sati, or of burning or burying alive the widows of Hindus is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated and by a vast majority of that people throughout India the practice is not kept up nor observed: in some extensive districts it does not exist; in those in

¹ See the third footnote on preceding page.

² Now “Province of Agra”, see Proclamation No. 996 P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ Ben. Reg. 17 of 1829 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces) except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in Kumaon and Garhwal, in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and it was extended, by notification under the same Act, to the Tarai Parganas, see Appendix, pp. 968, 1004, 1016 and 987.

Short title, the Bengal Sati Regulation, 1829, see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

which it has been most frequent it is notorious that, in many instances, acts of atrocity have been perpetrated which have been shocking to the Hindus themselves, and in their eyes unlawful and wicked.

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

2. The practice of sati, or burning or burying alive the widows of Hindus, is hereby declared illegal, and punishable by the Criminal Courts.

Sati declared illegal and punishable.

3. *First*.—All zamindars, taluqdars or other proprietors of land, whether malguzari or lakhiraj, all sadr farmers and under-renters of land of every description, all dependent taluqdars, all naibs and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all mandals or other headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section ; and any zamindar or other description of persons above-noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.

Zamindars, etc., responsible for immediate communication to police of intended sacrifice.

Penalty in case of neglect.

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police-darogha shall either repair in person to the spot, or depute his muharrir or jamadar, accompanied by one or more barkandazes of the Hindu religion ; and it shall be the duty of the police-officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve

Police how to act on receiving intelligence of intended sacrifice.

themselves in a crime, and become subject to punishment by the Criminal Courts.

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and, in the event of the police-officers being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

How to act
when
intelligence of
sacrifice does
not reach
them until
after it has
taken place.

Third.—Should intelligence of a sacrifice declared illegal by this Regulation not reach the police-officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

4 & 5. [*Procedure and powers of Magistrates and Courts.*] *Rep. Act XVII of 1862.*

BENGAL REGULATION V OF 1830.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[9th June, 1830.]

A Regulation * * * relating to the Cultivation and Delivery of Indigo-plant.

Preamble.

1. * * * * * * * * * * *2 Whereas it is desirable in certain cases to afford persons who may be unwilling to renew their contracts for the cultivation of indigo the means of obtaining, by summary process, a release from their engagements, the following rules have been enacted, to be in

¹ Ss. 1 and 5 of Ben. Reg. 5 of 1830 were declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces) except as regards the Scheduled Districts. They have been declared, by notification under the Scheduled Districts Act 1874 (14 of 1874), General Acts, Vol. II to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, see Appendix, pp 1004 and 1016.

Short title, the Bengal Indigo Contracts Regulation, 1830, see the Repealing and Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I, p. 20.

² The words and figures "for amending the provisions of Reg. VI, 1823, and for providing more effectually for enforcing the execution of contracts" in the title, and the first clause of the preamble were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI

(Secs. 2-5.)

force from the date of their promulgation throughout the territories subject to the Presidency of Fort William.

2. [*Persons inducing raiyats to break contracts liable to criminal prosecution.*] *Rep. Act VIII of 1868.*

3. [*Cultivators failing to fulfil engagements liable to imprisonment.*] *Rep. Act XVI of 1835.*

4. [*Punishment of persons damaging indigo plant.*] *Rep. Act III of 1857.*

5. *First.*—Any person who, having received advances under a written agreement for the cultivation of indigo, shall be desirous, on the expiration of the period of his contract, to settle his account, shall be at liberty, in the event of the proprietor of the factory, or the person acting in his behalf, refusing to settle the same, to present a petition to the Zila Court;

Procedure by persons wishing to be released from their engagements.

and the Judge, after a summary inquiry, in the presence of the parties or their authorized agents, into the merits of the case, shall, on proof of the expiration of the contract, and of there being no balance due from the petitioner, or if the petitioner shall deposit in Court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over the amount of any balance that may be deposited by him to the proprietor, or to the person acting in his behalf.

Second.—If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the Judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit.

Procedure if proprietor objects to receive balance.

BENGAL REGULATION XI OF 1831.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[1st November, 1831.]

A Regulation for vesting Tahsildars in certain cases with the Powers of Police-officers.

Preamble.

1. * * * * * Whereas with a view to improve the efficiency of the police, it is expedient that, in districts of the Ceded and Conquered Provinces² in which tahsildari establishments are maintained subject to the authority of the Collectors, *the Governor General in Council*³ be empowered, by an order in Council, to vest the tahsildars with the powers at present exercised by daroghas of police, * * * * * the following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the provinces aforesaid.

Governor General may authorize tahsildar to exercise powers vested in police-daroghas, etc.

2. It shall be competent to *the Governor General in Council*,⁴ by an order in Council, to authorize any tahsildar or tahsildars to exercise the powers vested by the existing Regulations in daroghas of police, and to determine the local limits of their police-jurisdictions within which all officers of police, including the present thana and village-police-establishments, shall be subordinate to, and subject to the control of, the tahsildar, in his capacity of chief police-thanadar.⁵

3. [*Daroghas to be designated Naib-daroghas.*] *Rep. Act XVI of 1854.*

4. [*Modification of Ben. Reg. XX of 1817.*] *Rep. Act XII of 1876.*

Tahsildars vested with powers of daroghas may employ

5. The tahsildars who may be vested with the powers of daroghas under this Regulation are authorized to employ, when necessary, in aid of the regular police-establishments, any chaprasis or other persons entertained on their

¹ Ss. 1, 2, 5 and 6 of Ben. Reg. 11 of 1831 were declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces) except as regards the Scheduled Districts. They have been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in Kumaon and Garhwal, in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and they were extended, by notification under the same Act, to the Tarai Parganas, see Appendix, pp. 968, 1004, 1016 and 987.

² The words and figures "Whereas by Regulation IV, 1821, the Collectors of land-revenue, or other persons exercising their powers are, in certain cases, authorized to perform the duties of Magistrates; and" and the words "and whereas it is expedient to modify the existing Regulations regarding the removal of police-officers" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

³ Ben. Reg. 11 of 1831 was extended to Benares by Act 16 of 1854, s. 3, *infra*, p. 81.

⁴ These powers are now exercisable by the Lieutenant-Governor of the United Provinces of Agra and Oudh, see Act 16 of 1854, s. 3, *infra*, p. 81 and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

⁵ As to the subordination of daroghas of police to tahsildars see Act 16 of 1854, s. 2, *infra*, p. 80.

fixed tahsildari establishments; and revenue-officers, when so employed, shall be guided in the discharge of their police-duties by all the rules now in force, or which may hereafter be enacted, for the guidance of the police-officers.

chaprasis, etc., on fixed tahsildari establishments.

But the fixed thana-establishments shall not be employed in the collection of the land-revenues, or in other revenue-duties, except in cases of distraint for arrears of rent or revenue, or such other occasions as by the Regulations in force is now authorized.

16. Whenever the Governor General in Council¹ shall see fit to carry into effect the arrangement herein authorized in any district or part of a district, a statement shall be drawn out specifying the number and extent of the several police and revenue-jurisdictions, the names and numbers of the officers attached to them, and the head-quarters or thanas and the out-posts of the several divisions:

Statement to be proclaimed in district where arrangement authorized by Regulation is carried into effect.

this statement shall be drawn out in English, Persian and the vernacular dialects, and suspended in a conspicuous place in the kachahri of the Collector and Magistrate at the sadr station, and shall be published by proclamation throughout the district.

7. [*Reductions in police-establishments.*] *Rep. Act XVI of 1854.*

8. [*Modification of Ben. Reg. XVII of 1816.*] *Rep. Act XVI of 1874.*

BENGAL REGULATION IX OF 1833.²

[APPLIES TO THE PROVINCE OF AGRA.]

[9th September, 1833.]

A Regulation³ * * * * for the more extensive Employment of Native Agency in the Revenue Department * * * *³

1. * * * * It having been found expedient * * * * that Preamble.

¹ These powers are now exercisable by the Lieutenant-Governor of the United Provinces, *see* Act 16 of 1854, s. 3, *infra*, p. 81 and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

² Ben. Reg. 9 of 1833 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in Kumaon and Garhwal, in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, *see* Appendix, pp. 1004, 969 and 1016.

As to limitation of suits contesting an award under this Regulation, *see* the Limitation Act, 1877 (15 of 1877), Sch. II, No. 45, in the revised edition of the Act as modified up to the 31st December, 1900.

Short title, the Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833, *see* the Repealing and Amending Act, 1903 (1 of 1903), s. 2, Bengal Code, Vol. I, p. 20.

³ The parts of the title and preamble which are here omitted refer to modifications of the Bengal Land Revenue Settlement Regulation, 1822 and to provisions regarding a more speedy decision of judicial matters by revenue-officers. They are obsolete in the Province of Agra, the sections of the Regulation dealing with them having been repealed by the N. W. P. Land Revenue Act, 1873 (19 of 1873).

Natives of respectability should be employed in more important trusts connected with the revenue-administration, the following provisions have been enacted, to be in force from the date of their promulgation.

2 to 15. [*Modification of Ben. Reg. VII of 1822, etc.*] *Rep. in the Province of Agra by Act XIX of 1873.*

Appointment
of Deputy
Collectors.

16. It shall be competent to the [Local Government]¹ to appoint to any revenue-jurisdiction a Deputy Collector, with the powers hereinafter specified.

Persons eli-
gible to office,
and how
appointed.

17. The office of Deputy Collector shall be open to Natives of India of any class or religious persuasion.

The persons selected shall be appointed by *the Governor General in Council*, and shall receive their commissions from Government in the usual mode, under the signature of the Secretary in the Revenue Department.

Monthly
allowance
how fixed,
and suscep-
tible of
increase.

18. The Deputy Collectors will receive a monthly allowance, to be fixed by the Governor General in Council, and to be susceptible of increase, from time to time, as their conduct may appear to entitle them respectively to such consideration.

19. [*Solemn declaration by Deputy Collectors.*] *Rep. Act X of 1873.*

Subordination
of Deputy
Collectors.

20. The Deputy Collectors appointed under this Regulation are to be in all respects subordinate to the Collector under whom they may be placed, and are required to perform all duties assigned to them by that functionary.

Duties in
which Col-
lectors may
employ them.

21. It will be at the discretion of the latter officer to employ them in settlement-duties under the provisions of Regulation VII, 1822,² in the superintendence of the Government khas mahals, and generally in the transaction of any other part of the duties of a Collector.

Their proceed-
ings how re-
corded and
how appeal-
able.

22. All proceedings held by a Deputy Collector appointed under this Regulation shall be recorded in his own name and on his own responsibility, subject to the revision and control of the Collector, and appealable to the superior authorities in the usual course.

Collector may
resume duties
committed to
them.

23. Provided always, that the Collector is competent to resume the duties which he may have committed to the deputy, assigning his reasons for so doing for the information of the Commissioner.

Interference
by Commis-
sioners with

24. Provided also, that the Revenue Commissioners, whenever they think proper, may interfere with any arrangements made by the Collectors for the

¹ Substituted for Governor General in Council, by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, Bengal Code, Vol. I, p. 18, and see also Act 19 of 1886, s. 1, *infra*, p. 315.

² S. 17 and s. 25 are to have effect and are to be deemed to have had effect in the Province of Agra as if the Lieutenant-Governor were referred to therein instead of the Governor General in Council, see Act 19 of 1886, s. 1, *infra*, p. 315.

³ Ben. Reg. 7 of 1822, so far as it relates to the Province of Agra, was repealed by the N. W. P. Land-revenue Act, 1873 (19 of 1873), s. 2.

(Sec. 25.)

employment of the deputies, or the distribution of business to be assigned to those functionaries, subject to the general control vested in the *¹ Board of Revenue or the Government, as the case may be.

arrangements
of Collectors
for employ-
ment of
deputies.

25. A deputy, appointed under this Regulation, shall not be removable but for misconduct, and with the sanction of *the Governor General in Council*.²

Rules regard-
ing dismissal
of Deputy
Collectors.

• Whenever there may be reason to believe that a deputy is disqualified by neglect, incapacity or corruption for continuance in office, a report shall be submitted by the local authorities, through the channel of the *¹ Board of Revenue, for the consideration of *the Governor General in Council*,² who shall be competent to suspend him, and order a further enquiry into the conduct of such deputy, or to direct his immediate dismissal, as may appear just and proper.

¹ The word "Sadr" in ss. 24 and 25 was repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

² See the second footnote on the preceding page.

PART II.

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN THE UNITED PROVINCES OF AGRA AND OUDH.

ACT No. X OF 1836.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[11th April, 1836.]

1. [*Repeal of clause 3 of section 5 of Regulation VI of 1823.*] *Rep. Act XIV of 1870.*

2. * * * *² Whenever the right to indigo-plant may be contested, and an order shall be passed, under the provisions of clause ninth, section 3, Regulation VI, 1823,³ of the Bengal Code, for the delivery of indigo-plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo-plant until he shall have given sufficient security to the satisfaction of the Court trying the case to make good any claim that shall be ultimately established to such indigo-plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.

Security to be given by person desiring to remove indigo-plant ordered to be delivered to him.

3. * * * *² When a lawful contract shall have been made between a raiyat and another party, by which contract the raiyat shall have bound himself to cultivate indigo-plant for the other party, or to deliver indigo-plant to the other party, and when the other party shall have advanced money to the raiyat for the purpose of enabling the raiyat to fulfil such contract, then if any other person, knowing that such contract exists, and that such advance has been made, shall prevail upon the raiyat to break such contract, the party who made the advance shall be entitled to proceed by civil

Right of suit of person making advances for cultivation or delivery of indigo-plant when breach of contract is induced by third person.

¹ Act 10 of 1836 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces) except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Scheduled portion of the Mirzapur District and in Jaunsar Bawar—see Appendix, pp. 1005 and 1016.

Short title, the Bengal Indigo Contracts Act, 1836, see the Repealing and Amending Act, 1908 (1 of 1908), s. 2, Bengal Code, Vol. I, p. 20.

² The words "And it is hereby enacted that" at the beginning of ss. 2 and 3 were repealed by the Repealing Act, 1874 (16 of 1874).

³ *Supra*, p. 46.

action against the person who shall have so prevailed on the raiyat, as well as against the raiyat, and to recover from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit :

Bar of suit for act done to recover debt or secure performance of lawful contract.

Provided always that nothing in this section contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt, or performance of a lawful contract.

Power to examine both plaintiff and defendant in suit, and to award compensation to successful defendant.

4. * * * *¹ The Court trying any suit instituted under the provisions of Regulation VI, 1823,² of the Bengal Code, or under the provisions of this Act, shall be authorized to examine both the plaintiff and the defendant whenever the Court shall deem such examination necessary to the ends of justice ; and, if the award be in favour of the defendant, to assign to the defendant, a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding.

5. [Power to refer certain suits to a Principal Sadr Amin or Sadr Amin.] Rep. Act VIII of 1868.

ACT No. XVI of 1854.³

[APPLIES TO THE PROVINCE OF AGRA.]

[28th July, 1854.]

An Act to amend Regulation XI of 1831⁴ of the Bengal Code.

WHEREAS the provisions of section 3 and section 7 of Regulation XI, 1831,⁴ have been found inconvenient ; and whereas it is expedient that Regulation XI, 1831,⁴ as amended by this Act, should be extended to the whole of the Province of Benares ; It is enacted as follows :—

1. [Repeal of ss. 3 and 7 of Bengal Regulation XI of 1831.] Rep. Act XIV of 1870.]

Daroghas of police subject to tahsildars.

2. Wherever any tahsildar shall have police-jurisdiction under the provisions of section 2 of the said Regulation XI, 1831,⁴ every darogha of police

¹ The words " And it is hereby enacted that " were repealed by the Repealing Act, 1874 (16 of 1874).

² *Supra*, p. 46.

³ Act 16 of 1854 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces) except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in Kumaon and Garhwal, the Tarai Parganas, the Scheduled portion of the Mirzapur District and in Jaunsar Bawar—see Appendix, pp. 971, 991, 1007 and 1018.

⁴ *Supra*, p. 74

hereafter appointed within the local limits of the police-jurisdiction of such tahsildar shall be subordinate to, and subject to the control of, such tahsildar, in his capacity of chief Police-thanadar.

3. Regulation XI, 1831,¹ as amended by this Act, shall extend to the whole of the Province of Benares, and all powers vested by the said Regulation in the Governor General in Council may be exercised by the Lieutenant-Governor of the North-Western Provinces.²

Regulation XI, 1831, as amended, extended to Benares.

ACT No. XII of 1856.³

[APPLIES TO THE PROVINCE OF AGRA.]

[9th May, 1856.]

An Act to amend the Law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William.

WHEREAS the law by which the Civil Courts are authorized to employ Amins upon local investigations is defective, and requires amendment;

Preamble.

* * * * It is enacted as follows :—

1. [Repeal of Regulations.] Rep. Act XIV of 1870.

2. In each district, officers to be designated Civil Court Amins shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries.

Appointment of Amins.

The number of Amins to be employed in each district, and the salaries to be allowed to them, shall be determined by the Local Government, with the sanction of the Governor General of India in Council.⁵

¹ *Supra*, p. 74.

² Now the United Provinces of Agra and Oudh, see Proclamation No. 996 P., dated the 22nd March, 1902, Gazette of India, Pt. I, p. 228, and s. 2 of the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ Act 12 of 1856 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the Scheduled portion of the Mirzapur District and in Jaunsar Bawar—see Appendix, pp. 1007 and 1019.

Short title, the Civil Courts Amins Act, 1856, see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI, p. 296.

⁴ The words “and whereas, in consequence of the extended jurisdiction which has been given to Moonsiffs and the change which has been made in the constitution of the office, it is no longer expedient that Moonsiffs should be employed in the attachment and sale of personal property, nor, except on rare and special occasions, in any of the duties enumerated in sections L, LI and LIII, Regulation 23, 1814, and” were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

⁵ Section 2 is to have effect and to be deemed to have had effect in the Province of Agra, as if the Lieutenant-Governor of the United Provinces were referred to in it instead of the Governor General in Council, see s. 1 of Act 19 of 1886 (discharge of functions by Lieutenant-Governor) and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, pp. 315 and 527, respectively.

Amins by whom appointed and to what Courts attached.

3. The Civil Court Amins shall be appointed by the Judge of the district, and the Judge shall from time to time attach them to the several Courts of the district according as the state of business may require :

Provided that an Amin attached to any particular Court may, with the sanction of the Judge, be employed occasionally by any other Court.

4. [Declaration to be made by Civil Court Amins.] Rep. Act. X of 1873.

Duties of Amins.

5. * * * * *¹ The Civil Court Amins may be employed in any of the following duties :—

(i) in investigating or adjusting accounts in any suit or other judicial proceeding :

(ii) in making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of mesne profits or damages, in any suit or other judicial proceeding :

(iii) in delivering over possession of lands, houses and other immoveable property, in execution of decrees or orders of Court :

(iv) in the sale of moveable property, and of houses, gardens and other² immoveable property of the kind described in section 3, Regulation VII, 1825 :

(v) in ascertaining the sufficiency of sureties and the means of persons suing *in forma pauperis*.

6, 7. [Procedure in referring accounts to Civil Court Amins ; procedure in cases of local enquiry.] Rep. Act X of 1861.

Expense of Amins how charged.

8. Whenever a Civil Court Amin may be employed on any duty connected with a pending suit, or the execution of a decree, except the sale of property, the Court shall estimate the time which the duty may be expected to occupy, and shall charge for the expense of the Amin such fixed rate *per diem* as may be determined by the Sadr Court.

The amount shall be paid into Court by the party at whose instance or for whose benefit the Amin is deputed, and shall be added to the costs of suit.

¹ The words " with the sanction of the Court of the Sudder Dewanny Adalat " in s. 3, and the words " subject to such general directions and restrictions as may from time to time be prescribed by the Sudder Court " at the beginning of s. 5, were repealed by the Repealing Act, 1873 (12 of 1873).

² That is " orchards, or small portions of lakhiraj land." Ben. Reg. 7 of 1825 was repealed by the Repealing Act, 1874 (16 of 1874), but not so as to affect that Regulation so far as it is referred to here, see s. 1, para. 2, of that Act.

9. When a Civil Court Amin shall be employed to sell property, a deduction at the rate of one anna in the rupee shall be made from the proceeds of the sale.

When employed to sell property, deduction from proceeds.

If no sale takes place by reason of the claim being satisfied, or for any other cause, a charge shall be made for the expenses of the Amin according to the time he may be employed.

Expenses, if no sale takes place.

A deposit to meet this charge, calculated in the manner prescribed in the preceding section, shall be made before the Amin is deputed, and shall be returned to the depositor if the sale takes place.

All sums paid for the employment of Amins, and all sums deducted from the proceeds of sales, shall be credited to Government.

10. Nothing contained in this Act shall be held to prohibit the Civil Courts in the ¹ North-Western Provinces of the Presidency of Fort William from making use of the agency of the Revenue-officers in investigations and adjustments of accounts connected with land paying revenue to Government. * * * * *

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¹ Now the Province of Agra, *see* Proclamation No. 396-P., dated the 22nd March, 1902, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

² The words "under such general directions as may from time to time be prescribed by the Sudder Court" after the word "Government" were repealed by the Repealing Act, 1873 (12 of 1873), and the words "Wherever a Tuhseedar, a Naib Tuhseedar or a Pe-hkar shall be employed in any such investigation or adjustment under the orders of a Civil Court, he shall possess all the powers vested in Civil Court Amins by section VII of this Act; and the provisions of the said section shall be applicable to the proceedings held by such officer" with which the section concluded were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

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19. Assessment or rate to stand good for one year.
Change of occupation before a new assessment or rate.
Revised assessment or rate to be deemed a new one.
Proviso.
20. Appeal from assessment or rate.
Limitation of appeal.
21. Commissioner may direct revision of assessment or rate.
22. Magistrate may direct revision at any time of the year, for reasons to be stated.
23. Publication of assessment or rate as revised under the two last sections.
24. Penalty for refusal to serve on pancháyat.
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32. Appointment and registry of chaukidars.
33. Appointment of jemadars and inspectors.
34. Appointment of tax-collectors and other establishment.
35. Contingent expenses.
36. Surplus funds may be devoted to conservancy purposes.
37. Preparation of assessment-lists.
38. Collection of assessment.
39. Remittance of collections.
40. Preparation of summons, etc.
41. Report of defaulters to Magistrate.
42. Summons of defaulters.
43. Assessment to be levied from defaulters by distress and sale.
44. Sale how to be conducted.
Proceeds how to be applied.
Returns of sale.
Costs.

SECTIONS.

45. Penalty for tax-darogah purchasing at such sales.
46. Sale of property beyond limits of town, etc.
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Penalty for extortion, etc.
Proviso.
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 - to prevent nuisances ;
 - to give intelligence of resort of thieves, etc. ;
 - to examine and detain suspected persons.
53. All persons required to assist chaukidars in making arrests.
54. Chaukidars, etc., how to be paid.
55. Punishment of chaukidars for neglect of duty, etc.
56. Suspension or dismissal of police-officers.
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58. [*Repealed.*]
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60. [*Repealed.*]
61. Interpretation of Act.

APPENDICES A to E.

(Sec. 1.)

ACT No. XX OF 1856.¹

[APPLIES TO 'THE UNITED PROVINCES.]

[14th November, 1856.]

An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.

Preamble.

WHEREAS it is expedient to make better provision for the appointment and maintenance of Police Chaukidars in cities, towns, stations, suburbs and bazars in the Presidency of Fort William in Bengal ²[and the territories under the administration of the Chief Commissioner of Oudh]; It is enacted as follows:—

Existing
assessment
to be levied
until revised.

1. * * * * * The monthly assessment levied under Regulation XXII, 1816, and Act XV of 1837 in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act.

¹ Short title, the Bengal Chaukidari Act, 1856, *see* the Repealing and Amending Act, 1903 (I for 1903), Bengal Code, Vol. I, p. 20.

The Act was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North Western Provinces) except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the scheduled portion of the Mirzapur District and in Jaunsar Bawar, and it has been extended, by notification under the same Act, to Kumaon and Garhwal and the Farai Parganas, *see* Appendix, pp. 1008, 1019, 971 and 992 respectively *infra*.

The Oudh Laws Act, 1876 (18 of 1876), s. 3 (c), declares it to be one of the laws to be administered by the Courts in Oudh, *infra*, p. 199.

For power to extend Act 20 of 1856 to cantonments, *see* the Cantonments Act, 1883 (13 of 1889), s. 18, General Acts, Vol. V, p. 335.

Act 20 of 1856 ceases to have effect in areas for which Municipal Boards come into existence under the United Provinces Municipalities Act, 1883 (15 of 1883), s. 17 (2), since repealed by the United Provinces Municipalities Act, 1900 (U. P. Act I of 1900), but not so as to affect Municipalities already constituted, *see* s. 2 (1), *infra*, p. 667.

It also ceases to apply to local areas for which Municipalities are constituted under the United Provinces Municipalities Act, 1900 (U. P. Act I of 1900), and panchayats under the Act cease to exist, *see* s. 19 of the latter Act, *infra*, p. 674.

Unless the Local Government otherwise directs, portions of districts in which this Act is in force are excluded from sub-districts formed under the United Provinces Local Boards Act, 1883 (14 of 1883), *see* s. 3 (2), *infra*, p. 233.

The Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), is to be read with, and taken as part of, Act 20 of 1856, *see* s. 6 of the former Act, *infra*, p. 152.

² These words were inserted by the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 200. Now the "Province of Oudh", *see* Proclamation No. 496 P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I. p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2 *infra*, p. 527. The Chief Commissioner of Oudh is now Lieutenant-Governor of the United Provinces of Agra and Oudh.

³ The first portion of this section, repealing Bengal Regulation 22 of 1816, s. 6 of Regulation 7 of 1817, Regulation 3 of 1821, s. 4 of Regulation 2 of 1832, and Act 16 of 1837, was repealed by the Repealing Act, 1870 (14 of 1870).

2. The provisions of this Act shall have effect in all cities, stations, towns, suburbs and bazars in the said Presidency [or territories]¹ to which the Local Government may, at any time, extend² the same by notification in the official Gazette: Provided always that this Act shall not be extended to any agricultural village.

To what places Act shall apply.

Proviso.

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section.

3. The Government may, by notification to be published in the official Gazette, unite, for the purposes of this Act, any city, town, suburb, station, or bazar, or any part or parts of a city, town, suburb, station, or bazar, with any other city, town, suburb, station, or bazar, or part or parts of a city, town, suburb, station, or bazar; and in such case all the provisions of this Act applicable to a city, town, suburb, station, or bazar shall apply to such union.

Unions may be formed.

4. For the purposes of this Act the Local Government may define and declare the limits of any city, town, suburb, station, bazar, or union, and all occupiers of houses within any such city, town, suburb, station, bazar, or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act³ for the purpose of maintaining the chaukidars appointed to be maintained in such city, town, station, suburb, bazar, or union.

Government may define limits of cities, towns, etc.

5. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Houses let to lodgers how to be assessed.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mohulla, for the

Penalty for removing, etc., name of street or number of house.

¹ This section was substituted by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 1, *infra*, p. 152.

The original section was as follows:—

“The provisions of this Act shall have effect in the cities and stations in which the said Regulation XXII, 1816, has heretofore been in force, and in every other city, station, town, suburb and bazar in the said Presidency, to which the Local Government at any time may extend the same by notification in the official Gazette: Provided always that this Act shall not be extended to any city, town, suburb or bazar, unless there be therein (or in some other city, town, suburb or bazar with which the same may be united as hereinafter provided) a police station under an officer of a grade, not below that of jemadar, nor to any agricultural village.”

² These words were inserted by the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

³ For a list of areas to which the Act has been extended from time to time, see pp. 3 to 13 of list 4 in Vol. I of the U. P. List of Local Rules and Orders, 1904.

⁴ For list of Notifications defining boundaries, see p. 14 *et seq.* of list 4 in Vol. I of the U. P. List of Local Rules and Orders, 1904.

(Secs. 7-11.)

purpose of identifying such house; and if any person shall wilfully remove, obliterate, or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding twenty rupees.

Magistrate to determine number of chaukidars. Proviso.

7. The Magistrate shall determine the number of chaukidars to be maintained in any city, town, or other such place as aforesaid; but the number of chaukidars so to be maintained shall not exceed one to every twenty-five houses.

Grades and wages of chaukidars.

8. The chaukidars appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Magistrate to determine the sum to be raised annually.

9. The Magistrate shall determine the total amount required to be raised in any year in any city, town, or other such place as aforesaid, for the purpose of maintaining the chaukidars appointed to be maintained therein, and for the purposes specified in sections 33, 34, 35, and 36 of this Act together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Nature of tax to be levied.

10. The tax ² to be levied in any city, town, or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances, and the property to be protected, of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof.

The Local Government, on the report of the Magistrate and Commissioner * * *, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Limitation of tax.

⁴ 11. If the tax be an assessment according to the circumstances, and the property to be protected, of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a chaukidar of the lowest grade.

If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.

¹ As to the payment of police-officers appointed under s. 33, *infra*, when such officers are employed out of the districts for which they are appointed under the Act, see s. 21 of the Police Act, 1861 (5 of 1861), as modified up to 7th March, 1903.

² See the Police Act, 1861 (5 of 1861), s. 21, as modified up to 7th March, 1903.

³ The words "of Circuit" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

⁴ This section was substituted by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 2, *infra*, p. 152. The original section was the same as the present section, save that the words "the aggregate sum to be raised by such tax shall not exceed the average rate of two annas per mensem for each house, and" have been omitted before the words "the amount assessed".

(Secs. 12-15.)

12. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year. Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

Rate how to be ascertained.

13. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same.

Magistrate may exempt occupiers unable to pay the assessment or rate.

14. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a pancháyat for each such city, town, or other place as aforesaid, or, when he may see fit to divide any such city, town, or place into convenient divisions for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business, or other description of the persons appointed and the period for which the appointment is made.

Constitution of pancháyats.

Every pancháyat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town, or other place, or in or near to any such division thereof :

Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit, to be a member of the pancháyat, notwithstanding such person may not reside or carry on business in or near to such city, town, or other place, or in or near to any such division thereof.

Magistrate may appoint a person not residing in the place to be a member of pancháyat.

15. The pancháyat so appointed, to the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town, or other place as aforesaid, or any division thereof) for which the pancháyat shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business, or other description of such occupier, the property occupied and the amount payable monthly by such occupier.

Duties of pancháyat.

If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified.

Form of
Magistrate's
requisition.

The requisition of the Magistrate to the panchayat to make out such list shall be in the form marked A or B, as the case may be, set forth in the Appendix to this Act annexed, or to the like effect.

Panchayat
may revise
existing
assessment
or rate.

16. The panchayat shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

Magistrate
may amend
and settle
assessment
or rate as
revised by the
panchayat.

17. When an assessment or rate shall have been made or revised, as the case may be, the panchayat shall forward to the Magistrate the list containing the same ; and the Magistrate shall revise, and, if necessary, amend and settle it.

Assessment
or rate to be
published.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the Appendix to this Act, or to the like effect, and written in the language of the province in which the city, town, or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made ; and another copy, together with a like notification, at the nearest police-thana ; and shall also cause a third copy to be deposited in his own office.

Assessment
or rate to
stand good
for one year.

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof ; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Change of
occupation
before a new
assessment
or rate.

Revised as-
sessment or
rate to be
deemed a
new one.
Proviso.

Every assessment or rate which shall be revised according to the provisions of section 16 shall be deemed a new assessment or rate : Provided always that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be re-published according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

Appeal from
assessment or
rate.

20. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by

(Secs. 21-25.)

examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same.

In case the Magistrate confirms the assessment or rate, he may award costs against the appellant.

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court :

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by section 18, or of the notification of the substitution of the name of an occupier under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Limitation of appeal.

21. The Commissioner * * * ¹, with the consent of the Local Government, may, at any time, direct the Magistrate to revise the assessment or rate of any city, town, or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same.

Commissioner may direct revision of assessment or rate.

22. The Magistrate may require the panchayat to revise the assessment or rate at any period during the year ; but on every such occasion he shall address a written order to the panchayat, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

Magistrate may direct revision at any time of the year, for reasons to be stated.

23. Whenever any assessment or rate is revised during the year as provided in the two last preceding sections, a revised list, together with a notification as prescribed in section 18, shall be prepared and published in the manner therein directed. And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in section 20.

Publication of assessment or rate as revised under the two last sections.

24. If any person appointed a member of a panchayat refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees.

Penalty for refusal to serve on panchayat.

25. If the persons appointed a panchayat, or a majority of them, refuse, or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may

If panchayat refuse or omit to act, Magistrate

¹ The words " of Circuit " were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

(Secs. 26-31.)

may assume
their func-
tions.

himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the pancháyat :

Provido.

Provided that the functions of the pancháyat shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this section.

Residents
only bound
to act on a
pancháyat.

26. No person shall be bound to act on a pancháyat unless he shall reside or carry on business within the limits of the district for which the pancháyat is to be appointed.

Duration of
pancháyat
and limit-
ation of
service
thereon.

27. Every pancháyat shall be appointed for the period of one year, and no person shall be compelled to serve on a pancháyat for more than one year at a time, or within less than three years after the expiry of previous service ; but nothing in this section shall prevent any person from being appointed to serve on a pancháyat at any time whatsoever with his own consent.

Member of
pancháyat
removeable
only on
application
of rate-
payers.

28. If a majority of the persons assessed or rated in any district for which a pancháyat shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the pancháyat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the pancháyat.

Vacancies in
pancháyat
how to be
supplied.

29. If any vacancy shall occur among the members of a pancháyat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members ; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 14 of this Act.

Pancháyat
to report
misconduct
of chauki-
dars, or
death or
absence.

30. The pancháyat shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukidar within the district for which they are appointed, which shall come to their knowledge ; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukidar or from any other cause.

Appointment
and duty
of sadr
pancháyat.

31. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sadr pancháyat consisting of not less than five members, who may be selected either from the members of the local pancháyats or from any other residents of the city or town.

It shall be the duty of the sadr pancháyat to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district pancháyats and enquiring into and reporting on appeals preferred against the same.

(Secs. 32-35.)

32. The chaukidars to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence, and previous occupation of every person so appointed, with the date of his appointment.

Appointment and registry of chaukidars.

33.¹ Subject to the approval of the Commissioner * * *, the Magistrate may appoint such number of jemadars and inspectors as may be necessary for the supervision and control of the chaukidars :

Appointment of jemadars and inspectors.

Provided that the number of these officers shall not be greater than one jemadar to fifteen chaukidars, and one inspector to sixty chaukidars.

34.¹ Subject to the approval of the Commissioner * * *, the Magistrate may appoint one or more tax-collectors or darogahs, and such other servants as may be necessary for preparing, or assisting the panchayat in preparing, the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records, and otherwise carrying out the purposes of this Act.

Appointment of tax-collectors and other establishment.

The Magistrate shall take from every tax-collector or darogah such security for the due disposal of the sums collected by him as may be thought necessary.

35.¹ The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses, and weapons for the chaukidars, and for any other contingencies that may seem to him necessary.

Contingent expenses.

36.¹ After paying the wages of the chaukidars and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may, with the sanction of the Commissioner * * *, appropriate any sum which may be available, to the purpose of cleansing the city, town, or place or of lighting or otherwise improving the same.

Surplus funds may be devoted to conservancy purposes.

37. The tax-darogahs shall prepare, from the lists hereinbefore mentioned, a register, which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person.

Preparation of assessment lists.

38.³ On such dates as may be fixed by the panchayats for payment of

Collection of assessment.

¹ As to raising money for the purposes specified in ss. 33-36, see s. 9, *supra*.

² The words "of Circuit" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

³ This section was substituted by Act 22 of 1871, s. 3, *infra*, p. 152.

The original section was the same as the present section, except that the first clause began with the words, "On the tenth of each calendar month, or so soon after as possible" instead of the words "On such dates as may be fixed by the panchayats for payment of instalments of tax"

(Secs. 39-43.)

instalments of the tax, the tax-darogah shall proceed in person or through some one of his office-establishment, to collect the amount due for the current month from each person subject to the tax ; and for all sums so collected the darogah shall grant a receipt :

Provided that, with the sanction of the ¹[Commissioner] previously obtained, the collection may be made quarterly instead of monthly ; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.

Remittance
of collec-
tions.

39. The tax-darogah shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the darogah a receipt for every sum of money so remitted.

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the Chaukidari Fund of the city, town, or place in or on account of which they are collected.

Preparation
of summons,
etc.

² 40. The tax-darogah shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

Report of
defaulters
to Magis-
trate.

³ 41. [On the tenth day after the date fixed for the payment of instalments of the tax,] or as soon after as possible, the tax-darogah shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summons of
defaulters.

42. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the Kachahri of the Magistrate within a reasonable time, to be specified in the summons, to show cause for his refusal.

Assessment
to be levied
from de-
faulters by
distress and
sale.

43. If any defaulter fail to appear in answer to the summons, or, having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-darogah, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises

¹ The word "Commissioner" was substituted for the words "Commissioners of Circuit" by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² In Oudh s. 40 is repealed, *see* the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 212.

³ These words were substituted for the words "On the twentieth of each calendar month" by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 4, *infra*, p. 152.

in respect of which the arrear is due; and the Magistrate's order, as contained in the warrant, shall be final.

44. The tax-darogah shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated. Sale how to be conducted

If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. Proceeds how to be applied.

The tax-darogah shall make a return of all such sales to the Magistrate in the form specified in Appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in Appendix E annexed to this Act. Returns of sale. Costs.

45. Any tax-darogah or other servant appointed under this Act, and any chaukidar or officer of police who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty rupees; and the property shall be confiscated. Penalty for tax-darogah purchasing at such sales.

46. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the nazir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant. Sale of property beyond limits of town etc.

47. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear. All goods found on premises liable to sale.

If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same: But owner of goods to be indemnified by the defaulter.

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due.

Penalty for obstructing tax-darogah in execution of duty.

Magistrates to try complaints against tax-darogah for extortion, etc.
Penalty for extortion, etc.

Proviso,

Powers, duties, and liabilities of chaukidars, jemadars, and inspectors.

Chaukidars to wear badges.

Duties of chaukidars—to apprehend offenders;

48. Every person who shall wilfully obstruct or molest any tax-darogah or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove, or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

49. The Magistrate shall receive and try all complaints preferred on oath or solemn affirmation against any tax-darogah or other person appointed under this Act for extortion, malversation, or other misconduct in the discharge of his duty.

On proof of any such offence, the tax-darogah or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-darogah or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

50. The chaukidars, and the jemadars and inspectors, appointed under this Act, shall exercise all the powers and perform all the duties, and be subject to all the liabilities of police-officers as prescribed in the General Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties, and liabilities are not inconsistent with, or otherwise expressly provided for, by this Act.

The chaukidars and the jemadars and inspectors are in all respects subordinate to the police-darogah of the thana within the limits of which they may be employed.

51. Every chaukidar appointed under this Act shall wear a badge with a number, and the name of the city, town, place, or division for which he is appointed, engraved thereon.

52. Every chaukidar and every jemadar and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised.

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets. to prevent nuisances ;

Third.—He shall give immediate intelligence to the police-darogah of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace. to give intelligence of resort of thieves, etc.,

Fourth.—He may stop, examine, and, if necessary, detain, any person who shall be reasonably suspected at any time of having or conveying any thing stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard, or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest police-station. to examine and detain suspected persons.

53. If a chaukidar or other police-officer be unable to effect an arrest, he may require all persons present to assist him ; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months. All persons required to assist chaukidars in making arrests.

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukidars and the jemadars and inspectors (if any) shall be mustered at the thana to which they are attached, and the police-darogah or muharrir of the thana shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukidar in an official register of receipts prepared for the purpose ; and the darogah, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate. Chaukidars, etc., how to be paid.

55. Any chaukidar and any jemadar or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months. Punishment of chaukidars for neglect of duty, etc.

56. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same. Suspension or dismissal of police-officers.

57. All fines levied under this Act shall be credited to the Chaukidari Fund,¹ and held available for the purposes of this Act. Fines how to be disposed of.

58. [*Jurisdiction of Magistrates.*] *Rep. Act X of 1872.*

59. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner Control over proceedings

¹ As to this Fund, see s. 39, *supra*.

(Sec. 61. Appendix A.)

of Magistrate and Commissioner.

Interpretation of Act.

* * *¹; and all the proceedings of the Commissioner * * *¹ shall be subject to the control of the Local Government.

60. [Act not to apply to Calcutta.] Rep. Act XII of 1891.

61. Wherever in this Act, or in any Appendix thereto, there is nothing in the context requiring a different interpretation—

The word “Magistrate” shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate.

The word “house” shall include any shop or warehouse.

The word “bazar” shall mean any place of trade where there is a collection of shops or warehouses.

The word “district” shall mean a city, town, bazar, or union, or any division thereof.

The expression “police-darogah” shall include any tahsildar or naib-tahsildar entrusted with police-jurisdiction.

APPENDIX A.²

To

[Here insert the names, places of abode, business or other description of the pancháyat.]

I do hereby require you, the pancháyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (here insert a period to be fixed by the Magistrate) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of _____, a fair and equitable assessment upon the several occupiers of houses, shops, and buildings, in the (here describe the city, town, place, or division), for the purpose of raising the sum of rupees _____ required for the maintenance of chaukidars for the year commencing on _____ and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances, and the property to be protected, of each person. But the amount assessed in respect of any one house shall not exceed rupees (here insert the pay of a chaukidar of the lowest grade) * * *³.

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together

¹ The words “of Circuit” were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² See s. 15, *supra*.

³ The words “and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop or building in the district” were repealed by the Bengal Chaukidari (Amendment) Act, 1871 (12 of 1871), s. 5, *infra*, p. 152.

(Appendix B.)

with the name and description of such occupier, shall be specified in the list together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade, or business or other description of the person assessed, the annual assessment and the quota payable monthly ; and may be in the following form, or to the like effect :—

| Property occupied. | Name of occupier. | Profession or business or other description. | Amount of monthly payment. |
|--------------------|-------------------|--|----------------------------|
| | | | |

APPENDIX B.¹

To

[Here insert the names, places of abode, business or other description of the panchayat.]

I do hereby require you, the panchayat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (here insert a period to be fixed by the Magistrate) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of _____, a fair and equal rate upon the several occupiers of houses, shops, and buildings, and of grounds occupied for the purposes of trade or business, in the (here describe the city, town, place, or division), for the purpose of raising the sum of rupees _____ required for the maintenance of chaukidars for the year commencing on _____

¹ See s. 15, *supra*.

(Appendix B.)

and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal percentage, not exceeding five per cent. of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade or business or other description of the person rated, the annual rateable value of the property, the annual rate, and the quota payable monthly ; and may be in the following form, or to the like effect :—

| Property occupied. | Name of occupier. | Profession or business or other description. | Annual value of property. | Annual rate. | Amount of monthly payment. |
|--------------------|-------------------|--|---------------------------|--------------|----------------------------|
| | | | | | |

(Appendix C.)

APPENDIX C.¹

An assessment (or rate, as the case may be,) made, for (here describe the city, town, village, or other place or division for which the rate is made) upon the several occupiers of houses and other property in the said district, pursuant to Act XX of 1856, for the purpose of maintaining chaukidars for such district.

| Property occupied. | Names of occupiers. | Profession or business. | Amount of monthly (or quarterly) assessment (or rate). |
|--------------------|---------------------|-------------------------|--|
| | | | |

Whereas the above assessment (or rate, as the case may be,) has been duly made pursuant to Act XX of 1856, and has been revised and settled by me, the undersigned Magistrate of _____, the several persons whose names are included in the said assessment (or rate) are hereby required to pay the monthly (or quarterly) contributions set opposite to their names with regularity to the tax-darogah or other person appointed by the Magistrate to receive the same * * * * *² (if the tax is to be collected quarterly, the months in which the payment is to be made must be specified) or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (or rated) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this _____ day of _____

Magistrate of _____ .

¹ See s. 18, *supra*.

² The words "the first payment on the 10th day of the month next succeeding the date of this notification and every subsequent payment on or before the 10th day of each succeeding month" were repealed by the Bengal Chaukidari (Amendment) Act, 1871 (22 of 1871), s. 5, *infra*, p. 152.

APPENDIX E.¹*Table of Fees payable in distrainments under this Act.*

| Sum distrained for | | | | | | | Fee. | |
|----------------------|---|---|---|---|---|---|------|-----|
| | | | | | | | Rs. | As. |
| Under 1 Rupee | . | . | . | . | . | . | 0 | 4 |
| 1 and under 3 Rupees | . | . | . | . | . | . | 0 | 8 |
| 3 „ 5 „ | . | . | . | . | . | . | 1 | 0 |
| 5 „ 10 „ | . | . | . | . | . | . | 1 | 8 |
| 10 „ 15 „ | . | . | . | . | . | . | 2 | 0 |
| 15 „ 20 „ | . | . | . | . | . | . | 2 | 8 |
| 20 „ 25 „ | . | . | . | . | . | . | 3 | 0 |
| 25 „ 30 „ | . | . | . | . | . | . | 3 | 8 |
| 30 „ 35 „ | . | . | . | . | . | . | 4 | 0 |
| 35 „ 40 „ | . | . | . | . | . | . | 4 | 8 |
| 40 „ 45 „ | . | . | . | . | . | . | 5 | 0 |
| 45 „ 50 „ | . | . | . | . | . | . | 5 | 8 |
| 50 „ 60 „ | . | . | . | . | . | . | 6 | 0 |
| 60 „ 80 „ | . | . | . | . | . | . | 7 | 8 |
| 80 „ 100 „ | . | . | . | . | . | . | 9 | 0 |
| Above 100 | . | . | . | . | . | . | 10 | 0 |

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

¹ See s. 44, *supra*.

ACT No. XIII OF 1857.¹

[APPLIES TO THE UNITED PROVINCES.]

[6th June, 1857.]

An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal ² [and the ³territories under the administration of the Chief Commissioner of Oudh].

Preamble.

WHEREAS the existing law relating to the cultivation of the poppy and the manufacture of opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed; and whereas it is also expedient * * * that the laws for preventing the illicit cultivation of the poppy, and for regulating the cultivation of the poppy and the manufacture of opium on account of Government, should be consolidated and amended; It is enacted as follows:—

1. [*Laws repealed.*] *Rep. Act XIV of 1870.*

2. [*Prohibition of poppy cultivation and opium manufacture.*] *Rep. Act I of 1878.*

3. The superintendence of the provision of opium for Government shall be entrusted to Agents, or other officers, ⁵ [being covenanted servants of the Company], duly appointed by Government in that behalf, who shall perform

Officers entrusted with superintendence of pro-

¹ Act 13 of 1857 was declared, by the Laws Local Extent Act, 1874 (15 of 1874), s. 7, General Acts, Vol. II, to be in force in the whole of the Province of Agra (then the North-Western Provinces), except as regards the Scheduled Districts. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in Kumaon and Garhwal and the scheduled portion of the Mirzapur District, and it was extended, by notification under the same Act, to the Tarai Parganas—see Appendix, pp. 972, 1008 and 992 respectively.

The Oudh Laws Act, 1876 (18 of 1876), s. 3 (e), *infra*, p. 199, declared it to be one of the laws to be administered by the Courts in Oudh.

Short title, the Opium Act, 1857, see the Repealing and Amending Act, 1903 (I of 1903), s. 2, Bengal Code, Vol. I, p. 20.

² These words were inserted by Act 18 of 1876, Sch. II, printed, *infra*, p. 212.

³ Now "the Province of Oudh", see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527. The Chief Commissioner of Oudh is now Lieutenant-Governor of the United Provinces of Agra and Oudh.

⁴ The words "that certain obsolete Regulations relating to the provision of Opium should be formally repealed and" were repealed by the Repealing and Amending Act, 1891, (12 of 1891), General Acts, Vol. VI.

⁵ The words in square brackets are repealed in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 212.

the duties connected therewith under the control and direction of the Board of Revenue¹ in Calcutta.

vision of
opium.

The Agents, or other officers as aforesaid, shall be assisted by Deputy Agents and Sub-deputy Agents, or such other officers, covenanted or uncovenanted, as the Government may, from time to time, appoint for the purpose.

Assistants to
Agents.

The Collector of the district shall ordinarily, and unless Government shall otherwise direct, be *ex officio* Deputy Agent; and the relative duties and powers of the Deputy Agents and Sub-deputy Agents shall be, from time to time, regulated by the said Board¹ with the sanction of Government.

Collector *ex
officio* Deputy
Agent.

4. The Opium Agents, and their subordinate officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided.

Officers amen-
able to Civil
Courts.

But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself.

Bar of suit
without pre-
vious appli-
cation to
Agent for
redress.

In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue,¹ or at once to seek redress in the Civil Court.

5. The Opium Agents shall not, in their official capacity, institute any suit in a Civil Court without the previous sanction of the Board of Revenue.¹

Sanction to
suit by Agent.

6. In cases in which the Board of Revenue¹ may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they or an Agent, or any other officer subordinate to them, may be engaged, instead of leaving such superintendence to the Agent or any other officer.

Board may in
certain cases
appoint officer
to conduct or
defend suits.

7. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the poppy on account of Government.

Board to fix
limits of
cultivation
and price
to be paid
to cultivators.

With the like sanction they shall from time to time fix the price to be paid to the cultivators for the opium produced.

¹ Read now Board of Revenue for the United Provinces. This Board was constituted by the N.-W. P. Land-revenue Act, 1873 (19 of 1873), and it was declared to be also the Board for the Province of Oudh, by the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 11 (1), *infra*, p. 406. Act 19 of 1873 is now repealed by the United Provinces Land-revenue Act, 1901 (U. P. Act 3 of 1901), but not so as to affect anything done under that Act, *see* s. 3 of the latter Act.

(Secs. 8-11.)

The price shall be fixed at a certain sum per ser of eighty tolas for opium of a certain standard consistence, and shall be subject to a rateable reduction, according to a scale sanctioned by the Board of Revenue,¹ for opium of a consistence below the standard.

Issue of
licenses.

8. The Sub-deputy Agents, or other officers entrusted with the superintendence of the cultivation, shall, at the proper period of the year, issue licenses to the cultivators who may choose to engage to cultivate the poppy, and to deliver the produce to the officers of Government at the established rates.

What to be
specified in
license.

Every license shall specify the number of bighas which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue,¹ may direct.

A counterpart-engagement, in conformity with the tenor of the license, shall be taken from the cultivator.

Cultivator to
have option
to engage to
cultivate or
not.
Officers com-
pelling culti-
vator to en-
gage liable to
be dismissed.

9. It shall be at the option of every cultivator to enter into engagements for the cultivation of the poppy or not as he may think fit; and any Sub-deputy Agent or other officer as aforesaid, or any inferior officer employed in the provision of opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the poppy, shall be liable to be dismissed from his situation.

Sub-deputy
Agent may
withhold
license to
cultivate.

It shall be at the option of the Sub-deputy Agent or other officer as aforesaid to withhold a license from any cultivator whenever he may think proper so to do.

Appeal.

Any person to whom a license has been refused may appeal to the Agent, and the decision of the Agent shall be final.

Penalty on
cultivator
receiving ad-
vances and
not cultivat-
ing full
quantity of
land.
Adjudication
of penalty.

10. If it shall be found that any cultivator who has received advances from Government has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other officer as aforesaid.

Appeal.

Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Delivery
of opium
produced.

11. All opium, the produce of land cultivated with poppy on account of Government, shall be delivered by the cultivators to the Sub-deputy Agents or other district-officers, or shall be brought by them to the sadr factory, as the Agent may direct.

And no such opium shall be liable to be distrained or attached by a zamindar or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court; but the sum due to the cultivator on account of such opium may be attached by order of Court in the hands of the Agent or of the district-officer under the rules in force for such attachments.

Opium not liable to distress or attachment.

Value thereof may be attached.

12. All opium delivered by the cultivators to the Sub-deputy Agent or other district-officer shall, before it is forwarded to the sadr factory, be weighed, examined and classified according to its quality and consistence by that officer, or his assistant, if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue.¹

Opium to be weighed and classified by Sub-deputy Agent.

Any cultivator who may be dissatisfied with the classification of the district-officer shall be at liberty either to take his opium to the sadr factory, or to have it forwarded thither by such officer separate from the opium respecting which no dispute has arisen.

Proceeding where cultivator is dissatisfied with classification.

13 All opium forwarded by the district-officers to the sadr factory, and all opium delivered at the sadr factory by the cultivators, shall be there weighed and examined by the Opium Examiner, or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue¹; and the quality and consistence of the opium, and the deductions from or additions (if any) to the standard price to be made in accordance with the said rules shall be determined by the result of such examination.

Weighing and examination at sadr factory.

The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

14. When opium delivered by a cultivator, either to a district-officer or at the sadr factory, is suspected of being adulterated with any foreign substance, it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator.

Confiscation of adulterated opium.

If upon such examination the opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated; and the order of the Agent shall be final, and not open to question in any Court.

Adjudication of confiscation.

15. The weights and scales made use of in the sadr factories, and at the district-kothis, shall be provided by the Board of Revenue.¹

Weights and scales.

¹ See the footnote on p. 105, *supra*.

(Secs. 16-19.)

Examination
thereof.

Every district-officer shall annually, before beginning to weigh the opium of the season, examine the weights and scales in use in his district, and shall report the result of such examination to the Agent.

The Agent shall make a similar examination of the weights and scales of the sadr factory, and shall report the result to the Board.¹

No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate.

It shall be the duty of all officers who may superintend the weighing of opium to see that the opium is weighed fairly with an even beam; and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

Adjustment
of cultivators'
accounts, and
recovery of
balance by
distress.

16. The accounts of the cultivators shall be adjusted annually by the district-officers as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any mahto or intermediate manager, may be recovered by the district-officer by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held khas may be distrained and sold by the Collector for the recovery of an arrear of rent or revenue:

Sanction to
issue of
warrant.

Provided that no warrant of distress and sale shall be issued by any district-officer without the sanction of the Agent previously obtained.

Penalty on
officers taking
bribes.

17. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred rupees.

Exactions by
land-holder
from raiyat
recoverable,
together
with
penalty, in
summary suit
before
Collector.

18. If any zamindar or other proprietor of land, or any farmer of land, shall exact from any raiyat on account of his poppy-land any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the raiyat, or the Sub-deputy Agent or other district-officer on his behalf, may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Penalty for
embezzlement

19. Any cultivator entering into engagements for the cultivation of the poppy on account of Government, who may embezzle, or otherwise illegally

¹ See the footnote on p. 105, *supra*.

(Secs. 20-22.)

dispose of, any part of the opium produced, shall be liable to a penalty not exceeding ten times the fixed price of the opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred rupees if the amount of the said penalty be less than that sum, and the opium, if found, shall be liable to confiscation.

of opium by
cultivator.

20. Any person purchasing or receiving any opium from a cultivator or other person who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any opium, and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any opium, shall be liable to a fine not exceeding one thousand rupees, unless the opium purchased, bargained for or illegally disposed of shall exceed the weight of thirty-one sers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per ser for all such opium in excess of that weight; and the opium, if found, shall be liable to confiscation.

Penalty for
illegal purchase of
opium from
cultivator.

And for illegal
connivance at
embezzlement
by Opium-
officer.

21. Any person who shall cultivate the poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty bighas, in which case the fine may be at the rate of twenty-five rupees per bigha; and the poppy-plants shall be destroyed, or, if any opium have been extracted from them, it shall be seized and confiscated.

Penalty for
unlicensed
cultivation.

If the opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per bigha of land illegally cultivated.

22. All proprietors, farmers, tahsildars, gumashtas and other managers of land shall give immediate information to the police or abkari darogas, or opium gumashtas, or to the Magistrates, Collectors, or officers in charge of the abkari mahal, or to the agents, their deputies, or sub-deputies, of all poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, tahsildar, gumashta or other manager of land who shall knowingly neglect to give such information shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of land-
holders and
others
to give
information
of illegal
cultivation..

Duty of police and other officers to give information of illegal cultivation.

23. All police and abkari daroghas, and opium gumashtas, and all Native officers of Government of whatever description, and all chaukidars, paiks and other village police-officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with poppy; and such authority shall transmit the information to the Sub-deputy Agent, or other officer superintending the cultivation of the poppy, if in a district where the poppy is cultivated on account of Government, or to the Collector or officer in charge of the abkari mahal, if in a district where the poppy is not so cultivated.

Every police or abkari darogha, opium gumashta, Native officer, chaukidar or other police-officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

Police or abkari darogha how to proceed in case of illegal cultivation.

24. Whenever a police or abkari darogha or opium gumashta shall receive intelligence of any land within his jurisdiction having been illegally cultivated with poppy, he shall immediately proceed to the spot, and, if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate.

He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and, in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

Land-holders, &c., may attach in cases of illegal cultivation.

25. Proprietors, farmers, tahsildars, gumashtas and other managers of land shall be at liberty to attach any poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest police or abkari darogha or opium gumashta, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

Adjudication of penalties.

26. Except as otherwise herein provided, all fines, penalties and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts in which the poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the abkari mahal:

Limitation.

Provided that no information of an offence against this Act shall be admitted, unless it be preferred within the period of one year after the commission of the offence to which the information refers.

27. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

Imprisonment
in default of
payment of
fine.

28. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Punishment
for repetition
of offences.

29. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an officer of Government or a village police-officer convicted of an offence under section 7, 20 or 23, shall be imprisoned in the civil jail.

Place of im-
prisonment
under section
23.

30. One-half of all fines and penalties levied from persons convicted of offences under sections 19, 20 and 21 of this Act, together with a reward of one rupee eight annas for each ser of opium confiscated and declared by the Civil Surgeon to be fit for use, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each ser of opium confiscated as aforesaid, shall be given to the informer.

Disposal of
fines and for-
feitures.

If in any case the fine or penalty is not realized, the Board of Revenue¹ may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to them fit.

31. The Governor General of India in Council may authorize, by an order of Government, the cultivation of the poppy and the manufacture of opium in any district or districts without license from a Sub-deputy Opium Agent or other officer of Government; and when such order has been published all the provisions of this Act shall cease to have effect in such district or districts:

Governor
General may
allow free
cultivation of
poppy and
manufacture
of opium in
any district.

Provided always that the Government may prescribe rules for the delivery of the opium so produced to officers of Government appointed to receive it; and, when such rules have been passed, any cultivator or other person engaged in the cultivation of the poppy and manufacture of opium who shall dispose of any opium otherwise than is allowed by such rules, and any person who

Power to
prescribe
rules for
delivery to
Government
officers.

¹ See the footnote on p. 105, *supra*.

(Secs. 1-3.)

shall purchase or receive any such opium in contravention of the said rules, shall be subject to the penalties prescribed in section 19 of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of Government or of any other person.

ACT No. XXVI OF 1866.¹

[APPLIES TO THE PROVINCE OF OUDH.]

[12th October, 1866.]

An Act to legalize the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that province.

Preamble.

WHEREAS rules have been made by the Chief Commissioner of Oudh for the better determination of certain claims by persons possessed of subordinate rights of property in the² territories subject to his administration; and whereas it is expedient that such rules should have the force of law; it is hereby enacted as follows :—

Rules as to
sub-settle-
ments con-
tained in
schedule to
have force of
law.

1. The rules for determining the conditions under which persons possessed of subordinate rights of property in taluqas in the² territories subject to the administration of the Chief Commissioner of Oudh shall be entitled to obtain a sub-settlement of lands, villages or sub-divisions thereof, which they held under taluqdars on or before the thirteenth day of February, 1856, and for determining the amounts payable to the taluqdar by such subordinate proprietors, which rules were made by the said Chief Commissioner, sanctioned by the Governor General of India in Council, and published in the Gazette of India for September 1st, 1866, and which are republished in the Schedule to this Act, are hereby declared to have the force of law.

2. [Repeal of inconsistent enactments.] *Rep. Act XIV of 1870.*

Short title.

3. This Act may be called the Oudh Sub-Settlement Act, 1866.

¹ The bill which became Act 26 of 1866 was introduced and passed at a single sitting of the Governor General's Council. For Proceedings relating thereto at this meeting of the Council, see Gazette of India, 1866, Supplement, p. 490. For correspondence relating to the rules which were legalized by this Act, see *ibid.*, pp. 386 to 396.

² Now "the Province of Oudh", see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527. The Chief Commissioner is now Lieutenant-Governor of the United Provinces of Agra and Oudh.

(Schedule.)

SCHEDULE.

Rules regarding Sub-Settlements and other subordinate Rights of Property in Oudh.

1. The extension of the term of limitation for the hearing of claims to under-proprietary rights in land makes of itself no alteration in the principles hitherto observed in the recognition of a right to sub-settlement.

2. When no rights are proved to have been exercised or enjoyed by an under-proprietor during the period of limitation, beyond the possession of certain lands as *sir* or *nankar*, no sub-settlement can be made; but the claimant will be entitled, in accordance with the rules contained in the circular orders which have hitherto been in force in Oudh upon this subject, to the recognition of a proprietary right in such lands. To entitle a claimant to obtain a sub-settlement, he must show that he possesses an under-proprietary right in the lands of which the sub-settlement is claimed, and that such right has been kept alive, over the whole area claimed, within the period of limitation. He must also show that he, either by himself or by some other person or persons from whom he has inherited, has, by virtue of his under-proprietary right, and not merely through privilege granted on account of service, or by favour of the taluqdar, held such lands under contract (*pakka*) with some degree of continuousness since the village came into the taluqa.

3. The words "some degree of continuousness" will be interpreted as follows:—

If the village was included in the taluqa before the thirteenth February, 1836, the lease must have been held for not less than twelve years between that date and the annexation of the province. If the village was included in the taluqa after the thirteenth February, 1836, but before the thirteenth February 1844, the lease must have been held for not less than one year more than half the period between the time in which the village was so included and the annexation of the province. Further, the lease must, in all cases, have been held for not less than seven years during the term of limitation, unless the village was included for the first time in the taluqa after the thirteenth February, 1844, in which case the lease must have been held for not less than one year more than half of the period between the time in which the village was so included and the annexation of the province: Provided that, if, for any reason, the taluqdar was, for any period, dispossessed of the village, and the under-proprietor was dispossessed from the lease during the same period, the term of such dispossession shall not be reckoned against the under-proprietor:

(Schedule.)

Provided also that nothing in this rule will apply to any village which was included for the first time in the taluqa after the thirteenth February, 1844, and in which the under-proprietor has held no lease for any period under the taluqdar.

4. If an under-proprietor, who is entitled to a sub-settlement, can show by documentary evidence that he had entered into an agreement with the taluqdar that he should hold, in perpetuity, the lease of the lands to the sub-settlement of which he is entitled, at a uniform (*istimrari*) rate of payment, and that such agreement has been acted on within the period of limitation, he will not be liable to payment at an increased rate during the currency of the present or revised settlement. If, in consequence of any future readjustment of the Government demand, the former proportion between the respective shares of the profits derived from the land by the under-proprietor and the taluqdar should be altered, the amount payable by the under-proprietor to the taluqdar will be liable to re-adjustment, so that the proportion between their respective shares of the profits may remain unaltered.

5. If an under-proprietor, entitled to sub-settlement, can show by documentary evidence that he had entered into an agreement with the taluqdar that he should hold the lease of the lands to the sub-settlement of which he is entitled, on payment of the Government demand imposed before the annexation of the province on such lands, with the addition only of certain dues to the taluqdar, or other charges, and such agreement has been acted upon within the period of limitation, such under-proprietor will in future be liable only for the payment to the taluqdar of the Government demand for the time being, with the addition of ten per cent. in lieu of taluqdari dues and other charges.

6. If an under-proprietor, entitled to sub-settlement, has held the lease of the lands to the sub-settlement of which he is entitled, under an agreement that he shall pay to the taluqdar a certain share or proportion of the profits or produce of such lands, and such agreement has been acted upon within the term of limitation, the under-proprietor will in future continue to be liable for the payment to the taluqdar of such share or proportion.

7. In all cases in which an under-proprietor is entitled to a sub-settlement other than those described in rules 4 to 6, the amount payable by the under-proprietor to the taluqdar will be determined according to the following principles:—

1st.—The payments made by the under-proprietor to the taluqdar before annexation will form the standard by which the present payments are to be regulated;

2nd.—In no case can the amount payable by the under-proprietor to the

(Schedule.)

taluqdar, during the currency of the settlement, exceed the gross rental of the village, less ten per cent. in *sir* or *nankar* land ;

3rd.—In no case can the amount payable during the currency of the settlement by the under-proprietor to the taluqdar be less than the amount of the revised Government demand, with the addition of ten per cent.;

4th.—If the gross rental of the village before annexation and at the present time be approximately the same, the under-proprietor will pay to the taluqdar the same amount which he paid before annexation ;

5th.—If the present gross rental of the village exceed or fall short of the former gross rental, the payment of the under-proprietor to the taluqdar will be adjusted according to the following rule, namely, as the former gross rental is to the former payment of the under-proprietor, so is the present gross rental to the present payment of the under-proprietor.

6th.—In determining the amount payable by the under-proprietor to the taluqdar under the two last preceding rules, the former gross rental and the former payment of the under-proprietor will be held to be the average amount of the gross rental, and the average amount of the former payments of the under-proprietor for the twelve years preceding annexation, or for such portion of that time as the under-proprietor held a lease of the village from the taluqdar, or for such portion of that time as the necessary information may be obtained.

8. In any case in which the clear share of the profit to which the under-proprietor is entitled under the rules contained in the last preceding paragraph does not exceed twelve per cent. of the gross rental, no sub-settlement shall be made. In this case the under-proprietor will retain all *sir* and *nankar* land to which his right is established. If the profits derived from such land be less than one-tenth of the whole rental of the land to the sub-settlement of which the right was established, the taluqdar shall increase the amount of such land so that the total profit to the under-proprietor shall not fall below one-tenth of the gross rental. The under-proprietor will possess, in the whole of such land a transferable and heritable right of property.

9. In any case in which an under-proprietor is entitled to a sub-settlement under the preceding rules, and in which the share of the gross rental which such under-proprietor is entitled to receive exceeds twelve per cent., but falls short of twenty-five per cent., such share will be increased so that it shall not be less than twenty-five per cent. of the gross rental. The cost of such increase will be borne half by the Government and half by the taluqdar. In this case the cesses on account of roads, schools, &c., amounting to two and-a-half per cent. on the Government demand, will be payable by the taluqdar

while the village-expenses, including the allowances to the patwari and chaukidar, will be payable by the under-proprietor.

10. When a former proprietor, who is not entitled to a sub-settlement, has retained within the period of limitation, either by himself or by some other person or persons from whom he has inherited, possession of land which by virtue of his proprietary right he held as *sir* or *nankar* when he was in proprietary possession, he will be deemed in respect of such land to be an under-proprietor, and will possess a heritable and transferable right of property therein, subject to the payment of such amount as may be due by him to the superior proprietor.

11. If, in any case, the founder of a purwa or hamlet, who is unable to establish a right to sub-settlement, can show that, in consideration of having founded such purwa or hamlet, he has held therein, within the period of limitation, possession of *sir* or *nankar* land, he will be recognized as an under-proprietor in such land, subject to the payment of such amount as may be due by him to the taluqdar. The amount of such payment will be determined according to the rules for determining the amount of the payment due by other under-proprietors on their *sir* or *nankar* lands.

12. Claims to proprietary and under-proprietary rights in jagirs will be treated according to the same rules which are applicable to similar claims in taluqas.

13. Cases in which claims to under-proprietary rights have been disposed of otherwise than in accordance with these rules will be open to revision; but this rule will not apply to cases disposed of by arbitration or by agreement of the parties.

J. STRACHEY,
Chief Commissioner of Oudh.

SIMLA;
The 20th August, 1866.

ACT No. I OF 1867.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[18th January, 1867.]

An Act to authorize the levy of Tolls for the improvement of the navigation of the Ganges.

Preamble.

WHEREAS it is expedient to authorize the levy of tolls on certain steamers, flats and boats plying on the river Ganges, to be applied for the improvement

¹ For Statement of Objects and Reasons, see Gazette of India, 1866, p. 1129; and for Proceedings in Council relating thereto, see *ibid.*, Supplement, p. 651, and *ibid.*, 1867, Supplement, p. 48.

of the navigation of the said river between Allahabad and Dinapur; It is hereby enacted as follows:—

1. In construing this Act—

Interpreta-
tion-clause.

“Lieutenant-Governor” shall mean the¹ Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William;

“Master” shall include every person (except a pilot) having command or charge of any steamer, flat or boat; and

“Magistrate” shall include any person exercising any of the powers of a Magistrate.

2. A toll not exceeding twelve annas per hundred maunds shall be payable, at such place or at one of such places subject to the government of the Lieutenant-Governor as he shall from time to time direct, in respect of every steamer, flat and boat of the burden of two hundred maunds and upwards which shall pass up or down the Ganges by such place or any one of such places:

Toll not ex-
ceeding
twelve annas
per one
hundred
maunds
chargeable on
vessels as-
cending or
descending
Ganges.

Provided that toll shall be levied in the case of steamers only on sixty-five per cent. of the burden, and in the case of flats only on ninety per cent. of the burden.

3. The burden of steamers and flats liable to pay tolls under this Act shall be determined according to the method which may from time to time be practised by the Master Attendant at Calcutta in order to ascertain the amount of port-dues which such steamers and flats would be liable to pay on arriving within the limits of the port of Calcutta.

Rules for
measurement
of burden.

The following method shall be used for determining in maunds, according to actual floatage or displacement, the burden of boats liable to pay tolls under this Act; (that is to say) half the length in feet at the water-level of the boat shall be multiplied by the greatest width in feet at the water-level, and the product shall further be multiplied by the draft of water in feet, and the number so found shall be taken to be the burden in maunds.

Thereupon the toll shall be calculated according to the even hundreds of maunds, fractions of a hundred being neglected.

4. The funds raised by the tolls payable under this Act shall be applicable, at the discretion of the Lieutenant-Governor, to defray the expenses of improving and facilitating the navigation of the Ganges between Allahabad and Dinapur.

Application of
funds raised
under Act.

5. The Lieutenant-Governor may appoint any person he may think fit to collect the tolls payable under this Act at any place or places under his

Appointment
of Collector of
tolls.

¹ Now Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 906-F., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

government, and may from time to time remove any such person and appoint another person in his stead.

List of tolls.

6. Sections 2 and 3 of this Act, and a list of the rates of toll and of the place or places of collecting the toll leviable under this Act, shall be at all times exhibited at such place or places in the English and Urdu languages, and shall also be published thrice in the local Gazette.

Person to collect tolls, and receiver to give voucher for same.

7. Every person so appointed shall collect the tolls leviable under this Act by himself, or by any officer in his establishment (if any) whom he shall appoint in this behalf.

The officer to whom any such toll shall be paid shall grant to the person paying the same a voucher in writing under his hand, describing the name of his office and the place at which such payment shall be made, the name (if any), burden and other proper description of the steamer, flat or boat, and the voyage in respect of which such toll shall be paid.

Payment of tolls how enforced.

8. If any toll leviable under this Act in respect of any steamer, flat or boat shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such steamer, flat or boat, and any furniture thereof, and to detain the same; and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the district in which the seizure has been made, or other public officer duly authorized by the Lieutenant-Governor in this behalf.

On receipt of such report the Collector, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said steamer, flat or boat, and any furniture thereof.

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale.

If the toll and also any expenses occasioned by non-payment be not paid or sufficient cause for non-payment be not shown, at or before the time of sale, to the Collector, Deputy Collector or other officer as aforesaid, such officer shall sell the steamer, flat or boat, and furniture seized, or so much thereof as may be necessary to pay the toll, and also any expenses occasioned by non-payment.

So much of the property seized as may not have been sold, and so much of the sale-proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the master of the steamer, flat or boat.

Power to sue for recovery of tolls.

9. Notwithstanding anything in this Act contained, the person authorized to collect the tolls payable under this Act at any such place as last aforesaid

(Secs. 10-13.)

may, in his own name, sue for and recover, on behalf of the Government of India, the amount of any tolls payable to him under this Act, by suit in any of the Civil Courts against the owner or master of any steamer, flat or boat liable thereto.

10. Upon the refusal or neglect of any owner or master of any steamer, flat or boat liable to pay toll under this Act to satisfy the person authorized to collect such toll as to what is the true burden, as ascertained under section 3 of this Act, of the steamer, flat or boat, it shall be lawful for such person to cause such steamer, flat or boat to be measured at the expense of the master thereof, and such expense shall be recoverable in the same manner as tolls payable under this Act ;

Ascertainment
by toll-col-
lector of
burden of
steamer, flat
or boat.

or it shall be lawful for such person to deliver to the master or owner of such steamer, flat or boat, or to leave for him on board such steamer, flat or boat, a notice in writing specifying what, in his judgment, is the burden of the steamer, flat or boat ; and the burden specified in such notice shall be deemed to be the real burden of the steamer, flat or boat, and be treated as such for all the purposes of this Act, until the owner or master of the steamer, flat or boat shall give sufficient proof of the true burden thereof, as ascertained under section 3 of this Act.

11. The master of any steamer, flat or boat which shall depart from, or arrive at, any place as last aforesaid, upon, or in the course of, or at the termination of, any voyage, shall, upon demand by any person authorized to collect or receive the tolls under this Act, specify whence he is come and whither he is bound.

Evading pay-
ment of tolls.

If any master of any such steamer, flat or boat shall refuse or neglect so to do, or shall make a false statement as to the place from which he is come or to which he is bound, or shall endeavour to evade the payment of any toll payable under this Act, he shall be punishable by a Magistrate by a fine not exceeding two hundred rupees.

12. If any dispute shall arise respecting the liability of any steamer, flat or boat to the payment of toll under this Act, or in respect of the burden of any steamer, flat or boat, or the amount of toll payable, or the amount of any charges on account of any sale under this Act such dispute shall be heard and determined by a Magistrate, and the decision of such Magistrate shall be final.

Magistrate to
decide dis-
putes respect-
ing tolls.

13. The Lieutenant-Governor may, from time to time as he may think fit, reduce all or any of the tolls payable under this Act, in respect of all vessels or of any particular class or classes of vessels, and again raise such tolls to any amount not exceeding the amount hereinbefore specified.

Lieutenant-
Governor may
alter tolls.

He may also prescribe a mode or modes of measurement for burden differing from those prescribed in section 3 of this Act: Provided that the tolls payable under such new mode or modes of measurement shall not exceed the amount specified as aforesaid.

Power to prohibit construction of bandhels.

14. Whenever, in the opinion of such officer as the Lieutenant Governor shall appoint in this behalf, the construction of any bandhel or other contrivance for fishing or for any other purpose, in any part of the Ganges between Allahabad and Dinapur, is likely to cause obstruction to the free and safe navigation of such part, he may by notice in writing, to be served on the owner or person in charge of such bandhel or other contrivance, or, if such owner or other person cannot be found, to be affixed at some conspicuous place in the nearest village, prohibit the construction of such bandhel or other contrivance.

Penalty for causing obstruction to navigation.

15. Any person who shall wilfully disobey any prohibition under the last preceding section, or shall wilfully cause or aid in causing any obstruction to the navigation of the Ganges between Allahabad and Dinapur, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction or in repairing such damage.

Rules relating to navigation.

16. It shall be lawful for the Lieutenant-Governor from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend such rules, for the management of the navigation of any part of the Ganges between Allahabad and Dinapur, and for regulating the conduct of persons employed for any of the purposes of this Act; and the Lieutenant-Governor may affix fines as penalties for the infringement of such rules, not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters:—

- (a) for fixing the number and the width of steamers, flats and boats to be allowed to pass into or out of or through any part of the Ganges between Allahabad and Dinapur at one time or abreast;
- (b) for determining the length of time during which steamers, flats or boats may remain stationary on such part, and the amount of demur-

¹ For navigation rules, see N.-W. P. Gazette, 1869, p. 363.

rage to be paid by steamers, flats or boats remaining stationary beyond such time ;

(c) for regulating the mode in which, and the place or places at which, tolls ¹ are to be levied under this Act ;

(d) for the removal of sunken vessels and obstructions ;

(e) and for the storing and disposal of the cargo of steamers, flats and boats seized under this Act.

* 17. All fines imposed under this Act may be recovered in the manner prescribed by the ² Code of Criminal Procedure, and may be disposed of as the Lieutenant-Governor shall from time to time direct. Recovery of fines.

THE PUBLIC GAMBLING ACT, 1867.

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¹ For rules as to tolls, see N.-W. P. and Oudh Gazette, 1887, Pt. I, p. 210.

² See now s. 386 of Act V of 1898, as modified up to the 1st April, 1903.

ACT No. III OF 1867.¹

[APPLIES TO THE UNITED PROVINCES.]

[25th January, 1867.]

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the ² North-Western Provinces of the Presidency of Fort William, and in the Punjab, ³Oudh, ³[and the Central Provinces].

Preamble.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Governments of the Lieutenant-Governor of the ⁴ North-Western Provinces of the Presidency of Fort William, [and]⁵ of the Lieutenant-Governor of the Punjab, and to the administrations of the ⁶ Chief Commissioner of Oudh, ⁶[and of the Chief Commissioner of the Central Provinces] ; It is hereby enacted as follows :—

1. In this Act—

Interpretation-clause.
“ Lieutenant-Governor.”

“ [“ Lieutenant-Governor ” means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be :]

“ Chief Commissioner.”

“ [“ Chief Commissioner ” means the Chief Commissioner of the Central Provinces, or of the North-West Frontier Province, as the case may be :]

“ Common gaming-house.”

“ common gaming-house ” means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge

¹ For Statement of Objects and Reasons, *see* Gazette of India, 1866, p. 976 ; for Report of the Select Committee, *see* *ibid.*, 1867, Supplement, p. 41 ; and for Proceedings in Council *see* *ibid.*, 1866, p. 602 ; *ibid.*, 1867, pp. 43 and 52.

Short title, the Public Gambling Act, 1867, *see* the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

Act III of 1867 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Tarai Parganas, *see* Appendix, p. 995.

² The North-Western Provinces and the Province of Oudh are now known as the United Provinces of Agra and Oudh, *see* Proclamation No. 996-P., dated 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

³ The words “ and the Central Provinces ” were substituted for the words “ the Central Provinces and British Burma ” by the Repealing and Amending Act, 1903 (1 of 1903), General Acts, Vol. VII, p. 208.

⁴ Now the United Provinces of Agra and Oudh, *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

⁵ The word “ and ” was inserted by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II, General Acts, Vol. VI.

⁶ Substituted for the words “ of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma ” by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, General Acts, Vol. VII, p. 208.

⁷ Substituted for the original definitions by the Repealing and Amending Act, 1903 (1 of 1903), General Acts, Vol. VII, p. 203.

(Secs. 2-3.)

for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever :

words in the singular include the plural and *vice versa*, and

Number.

words denoting the masculine gender include females.

Gender.

2. ¹ [Sections 13 and 17] of this Act shall extend to the whole of the said territories ; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to ² extend, by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and, from time to time, to alter the limits so defined.

Power to extend Act.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories, to which such extension shall have been made, as shall be inconsistent with or repugnant to any section, so extended, shall cease to have effect in such territories.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house ; and

Penalty for owning or keeping, or having charge of, a gaming-house.

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house ; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid ; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description³ as defined in the Indian Penal Code, for any term not exceeding three months.⁴

XLV of 1860.

¹ These words and figures were substituted for the original words and figures by the Repealing and Amending Act, 1891 (12 of 1891), Sch. II, General Acts, Vol. VI.

² For list of towns to which the Act has been extended under this power, see United Provinces Local Rules and Orders, 1904, List No. 4, pp. 27 to 30, Vol. I, Pt. I.

³ See s. 53 of Act 45 of 1860. For Act 45 of 1860, see the revised edition, as modified up to the 1st April, 1903.

⁴ As to enhanced punishment for a second conviction of an offence under s. 3 or s. 4, see s. 15 of this Act.

(Secs. 4-5.)

Penalty
for being
found in
gaming-
house.

4. Whoever is found in any such house, walled enclosure, room or place playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description,¹ as defined in the Indian Penal Code, for any term not exceeding one month²;

XLV of 1860.

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to
enter and
authorize
Police to
enter and
search.

5. If the Magistrate of a district,³ or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house,

he may either himself enter, or, by his warrant, authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint⁴ in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such house, walled enclosure, room or place;

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer find therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

¹ See s. 53 of Act 45 of 1860. For Act 45 of 1860, see the revised edition, as modified up to the 1st April, 1903.

² As to enhanced punishment for a second conviction of an offence under s. 3 or s. 4, see s. 15 of this Act.

³ Read District Magistrate and Magistrate of the first class, respectively, see Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 3, as modified up to 1st April, 1903.

⁴ For notification empowering Inspectors of Police and all officers in charge of police-stations not below the rank of Sub-Inspector in the United Provinces of Agra and Oudh to exercise the power here described, see notifications referred to under ss. 2 and 5 of the Act, on pp. 27, 28 and 29 of List No. 4 in the United Provinces Local Rules and Orders, Ed. 1904, Vol. I, Pt. I.

(Secs. 6-10.)

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming¹ are found in any house, walled enclosure, room or place entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer, or any of his assistants.

Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

Penalty on persons arrested for giving false names and addresses.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Proof of playing for stakes unnecessary.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing

Magistrate may require any person apprehended to be sworn and give evidence.

¹ "Cowries" are not "instruments of gaming"—*Queen-Empress v. Bharsani*, I. L. R. 18 All. 23;

or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code.¹

XLV of 1860.

Witnesses
indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall, in the opinion of the Magistrate, make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to
apply to
certain
games.

12. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.

Gaming
and setting
birds and
animals
to fight
in public
streets.

13. A Police-officer may apprehend without warrant—

any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such persons when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to

¹ For Act 45 of 1860, see the revised edition, as modified up to 1st April, 1903.

(Secs. 14-17.)

imprisonment, either simple or rigorous, for any term not exceeding one calendar month;

and such Police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed.

Destruction of instruments of gaming found in public streets. Offences by whom triable.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the ¹ Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Penalty for subsequent offence.

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Portion of fine may be paid to informer.

17. All fines imposed under this Act may be recovered in the manner prescribed by section 61 of the ² Code of Criminal Procedure, and such fines shall (subject to the provisions contained in the last preceding section) be applied ³ as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall, from time to time direct.

Recovery and application of fines.

18. [Offences under this Act to be "offences" within meaning of Penal Code.] *Rep. Act XVI of 1874, section 1, and Schedule, Part I.*

¹ See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), as modified up to 1st April, 1903.

² See now ss. 386, 387 and 389 of Act 5 of 1898 in the revised edition, as modified up to the 1st April, 1903.

³ For notifications as to crediting such fines to Municipal Funds, see the United Provinces Local Rules and Orders, Ed. 1904, List 4, p. 30, Vol. I, Pt. I.

ACT No. XXIV OF 1868.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[1st October, 1868.]

An Act to prohibit the practice of inoculation in Kumaon and Garhwal.

Preamble. WHEREAS it is expedient to prohibit the practice of inoculation with the small-pox in the districts of Kumaon and Garhwal; It is hereby enacted as follows:—

Penalty for inoculating.

1. Whoever produces or attempts to produce in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding three months, or to fine not exceeding two hundred rupees, or to both.

Penalty on inoculated person entering place to which Act extends.

2. If any person having been inoculated with the small-pox in a place to which this Act does not extend shall afterwards enter any place to which this Act extends, before the date² of forty days from the date of such inoculation or without a certificate from a qualified medical officer that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

Reward to informer.

3. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half of such fine to the person on whose information the offender has been convicted.

Extent of Act.

4. This Act extends only to the Districts of Kumaon and Garhwal.³

¹ For Statement of Objects and Reasons, see Gazette of India, 1868, p. 1042; for Proceedings in Council, see *ibid.*, Supplement, pp. 673, 688 and 931.

² *Sic.* Read expiry.

³ Act 24 of 1868 has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to the Tarai Parganas—see Appendix, p. 296.

OUDH ESTATES ACT, 1869.

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ACT No. I of 1869.¹

[APPLIES TO THE PROVINCE OF OUDH.]

[12th January, 1869.]

An Act to define the rights of Taluqdars and others in certain estates in Oudh, and to regulate the succession thereto.

Preamble.

WHEREAS, after the re-occupation of Oudh by the British Government in the year 1858, the proprietary right in divers estates in that province was, under certain conditions, conferred by the British Government upon certain taluqdars and others; and whereas doubts may arise as to the nature of the rights of the said taluqdars and others in such estates, and as to the course of succession thereto; and whereas it is expedient to prevent such doubts, and to regulate such course, and to provide for such other matters connected therewith as are hereinafter mentioned; It is hereby enacted as follows:—

¹ For Statement of Objects and Reasons, see Gazette of India, 1867, p. 1134; for Proceedings in Council, see *ibid.*, Supplement, pp. 614 and 652; and *ibid.*, 1869, Supplement, p. 60.

(I.—Preliminary. Secs. 1-2. II.—Rights and Liabilities of Taluqdars and Grantees. Sec. 3.)

I.—Preliminary.

1. This Act may be cited as the Oudh Estates Act, 1869, and shall extend only to the estates hereinafter referred to. Short title.
Extent of Act.

2. In this Act, unless there be something repugnant in the subject or context,— Interpreta-
tion-clause.

“transfer” means an alienation *inter vivos* :

“will” means the legal declaration of the intentions of the testator with respect to his property affected by this Act, which he desires to be carried into effect after his death :

“codicil” means an instrument made in relation to a will, and explaining, altering or adding to its dispositions ; it is considered as forming an additional part of the will :

“signed” applies to the affixing of a mark¹ :

“registered” means registered according to the provisions of the rules relating to the registration of assurances for the time being in force in Oudh :

“minor” means any person who shall not have completed the age of eighteen years ; and “minority” means the status of such person :

“taluqdar” means any person whose name is entered in the first of the lists mentioned in section 8 :

“grantee” means any person upon whom the proprietary right in an estate has been conferred by a special grant of the British Government, and whose name is entered in the fifth or sixth of the lists mentioned in section 8 :

“estate” means the taluqa or immoveable property acquired or held by a taluqdar or grantee in the manner mentioned in section 3, section 4 or section 5, or the immoveable property conferred by a special grant of the British Government upon a grantee :

“heir” means a person who inherits property, otherwise than as a widow, under the special provisions of this Act ; and “legatee” means a person to whom property is bequeathed under the same provisions :

words expressing relationship denote only legitimate relatives, but apply to children in the womb who are afterwards born alive.

II.—Rights and Liabilities of Taluqdars and Grantees.

3. Every taluqdar with whom a summary settlement of the Government revenue was made between the first day of April, 1858, and the tenth day of Taluqdars to
have heritable
and transfer-

¹ Cf. s. 3 (52) of the General Clauses Act, 1897 (10 of 1897), General Acts, Vol. VI, p. 322.

² For a new definition of the word “registered,” see the Oudh Estates (Amendment) Act 1885 (10 of 1885), *infra*, p. 301, also s. 3 (45) of the General Clauses Act, 1897 (10 of 1897), Genl. Acts, Vol. VI, p. 321.

(II.—*Rights and Liabilities of Taluqdars and Grantees.* Secs. 4-7.)

able rights in
their estates,

October, 1859, or to whom, before the passing of this Act and subsequently to the first day of April, 1858, a taluqdari sanad has been granted,

shall be deemed to have thereby acquired a permanent, heritable and transferable right in the estate comprising the villages and lands named in the list attached to the agreement or kabuliyat executed by such taluqdar when such settlement was made,

or which may have been or may be decreed to him by the Court of an officer engaged in making the first regular settlement of the Province of Oudh, such decree not having been appealed from within the time limited for appealing against it, or, if appealed from, having been affirmed.

subject to
certain con-
ditions.

subject to all the conditions affecting the taluqdar contained in the orders passed by the Governor General of India on the tenth and nineteenth days of October, 1859, and re-published in the first schedule hereto annexed, and subject also to all the conditions contained in the sanad under which the estate is held.

Rights and
liabilities of
persons named
in second
schedule.

: 4. Every person whose lands the proclamation issued in Oudh in the month of March, 1858, by order of the Governor General of India specially exempted from confiscation, and whose names are contained in the second schedule hereto annexed, shall be deemed to possess, in the lands for which such person executed a kabuliyat between the first day of April, 1858, and the first day of April, 1860, the same right and title which he would have possessed thereto if he had acquired the same in the manner mentioned in section 3; and he shall be deemed to hold the same subject to all the conditions affecting taluqdars which are referred to in the said section, and to be a taluqdar for all the purposes of this Act.

Grantees'
rights and
liabilities.

5. Every grantee shall possess the same rights and be subject to the same conditions in respect of the estate comprised in his grant as a taluqdar possesses and is subject to, under section 3, in respect of his estate.

Saving of
certain re-
demption-
suits.

6. Nothing in sections 3, 4 and 5, or in the said orders, or in any sanad shall be deemed to bar a suit for redemption—

(a) where the instrument of mortgage was executed on or after the thirteenth day of February, 1844, and fixed no term within which the property comprised therein might be redeemed, or

(b) where the instrument of mortgage fixed a term within which the property comprised therein might be redeemed, and such term did not expire before the thirteenth day of February, 1856.

Heirlooms.

7. If a taluqdar or grantee, or any heir or legatee of a taluqdar or grantee, desire that any elephants, jewels, arms or other articles of moveable property belonging to him shall devolve along with his estate, he shall take an inventory

(III.—*Lists of Taluqdars and Grantees.* Secs. 5-9.)

of such articles. Such inventory shall be signed by him and deposited in the office of the Deputy Commissioner of the district wherein such estate or the greater part thereof is situate; and thereupon such of the said articles as shall not have been transferred shall (so far as may be possible) be used and enjoyed by the person who, under or by virtue of this Act, is for the time being in actual possession or in receipt of the rents and profits of the said estate or the greater part thereof, otherwise than as mortgagee or lessee.

III.—*Lists of Taluqdars and Grantees.*

8. Within six months after the passing of this Act, the ¹Chief Commissioner of Oudh, subject to such instructions as he may receive from the Governor General of India in Council, shall cause to be prepared six lists, namely:—

Preparation of lists of taluqdars and grantees.

first, a list of all persons who are to be considered² taluqdars within the meaning of this Act;

second, a list of the taluqdars whose estates, according to the custom of the family on and before the thirtieth day of February, 1856, ordinarily devolved upon a single heir;

third, a list of the taluqdars, not included in the second of such lists, to whom sanads or grants have been or may be given or made by the British Government up to the date fixed for the closing of such lists, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

fourth, a list of the taluqdars to whom the provisions of section 23 are applicable;

fifth, a list of the grantees to whom sanads or grants have been or may be given or made by the British Government, up to the date fixed for the closing of such list, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture;

sixth, a list of the grantees to whom the provisions of section 23 are applicable.

9. When the lists mentioned in section 8 shall have been approved by the ¹Chief Commissioner of Oudh, they shall be published in the Gazette of India. After such publication the first and second of the said lists shall not, except in the manner provided by section 30 or section 31, as the case may be, be liable to any alteration in respect of any names entered therein.

Publication of lists.

¹ Now the Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 936-P, dated the 22nd March, 1902. *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *supra*, p. 527.

² For lists of taluqdars in Oudh, see those noted on p. 31 of List I of the United Provinces List of Local Rules and Orders, E. I. P. O. Vol. I, Pt. I.

(III.—*Lists of Taluqdars and Grantees. Sec. 10. IV.—Powers of Taluqdars and Grantees to transfer and bequeath. Secs. 11-12.*)

Supplementary list.

If, at any time after the publication of the said lists, it appears to the Governor General in Council that the name of any person has been wrongly omitted from or wrongly entered in any of the said lists, the said Governor General in Council may order the name to be inserted in the proper list, and such name shall be published in the Gazette of India in a supplementary list, and such person shall be treated in all respects as if his name had been from the first inserted in the proper list.

None but persons named in list to be deemed taluqdars or grantees.

10. No persons shall be considered taluqdars or grantees within the meaning of this Act, other than the persons named in such original or supplementary lists as aforesaid. The Courts shall take judicial notice of the said lists and shall regard them as conclusive evidence that the persons named therein are such taluqdars or grantees.

IV.—Powers of Taluqdars and Grantees to transfer and bequeath.

Taluqdars and grantees may transfer and bequeath.

11. Subject to the provisions of this Act, and to all the conditions under which the estate was conferred by the British Government, every taluqdar and grantee, and every heir and legatee of a taluqdar and grantee, of sound mind and not a minor, shall be competent to transfer the whole or any portion of his estate, or of his right and interest therein, during his lifetime, by sale, exchange, mortgage, lease or gift, and to bequeath by his will to any person the whole or any portion of such estate, right and interest.

A married woman may make a bequest under this Act of any property which she could alienate by her own act during her life.

Persons who are deaf or dumb or blind are not thereby incapacitated for making a transfer or bequest under this Act, if they are able to know what they do by it.

One who is ordinarily insane may make a transfer or bequest under this Act during an interval in which he is of sound mind.

No person can make a transfer or bequest under this Act while he is in such a state of mind, whether from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

A transfer and a will, or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the transferor or testator, is void.

Rule against perpetuity.

12. No transfer or bequest under this Act shall be valid whereby the vesting of the thing transferred or bequeathed may be delayed beyond the lifetime of one or more persons living at the decease of the transferee or testator and the minority of some person who shall be in existence at the expiration

(IV.—Powers of Taluqdars and Grantees to transfer and bequeath. Sec. 13.

V.—Transfers and Bequests. Secs. 14-15.)

of that period, and to whom, if he attains full age, the thing transferred or bequeathed is to belong.

13. No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee, shall have power to give or bequeath his estate, or any portion thereof or any interest therein, to any person not being either—

Restriction as to donees and legatees.

(1) a person who, under the provisions of this Act, or under the ordinary law to which persons of the donor's or testator's tribe and religion are subject, would have succeeded to such estate or to a portion thereof, or to an interest therein, if such taluqdar or grantee, heir or legatee, had died intestate, or

(2) a younger son of the taluqdar or grantee, heir or legatee, in case the name of such taluqdar or grantee appears in the third or the fifth of the lists mentioned in section 8,

except by an instrument of gift or a will executed and attested, not less than three months before the death of the donor or testator, in manner herein provided in the case of a gift or will, as the case may be, and registered within one month from the date of its execution.

V.—Transfers and Bequests.

14. If any taluqdar or grantee shall heretofore have transferred or bequeathed, or if any taluqdar or grantee, or his heir or legatee, shall hereafter transfer or bequeath, the whole or any portion of his estate to another taluqdar or grantee, or to such younger son as is referred to in section 13, clause (a), or to a person who would have succeeded according to the provisions of this Act to the estate or to a portion thereof if the transferor or testator had died without having made the transfer and intestate, the transferee or legatee and his heirs and legatees shall have the same rights and powers in regard to the property to which he or they may have become entitled under or by virtue of such transfer or bequest, and shall hold the same subject to the same conditions and to the same rules of succession, as the transferor or testator.

Transfers and bequests to taluqdars or heirs.

15. If any taluqdar or grantee shall heretofore have transferred or bequeathed, or if any taluqdar or grantee or his heir or legatee shall hereafter transfer or bequeath, to any person not being a taluqdar or grantee the whole or any portion of his estate, and such person would not have succeeded according to the provisions of this Act to the estate or to a portion thereof if the transferor or testator had died without having made the transfer and intestate, the transfer of and succession to the property so transferred or bequeathed shall be regulated by the rules which would have governed the transfer of and succession to such property if the transferee or legatee had bought the same from a person not being a taluqdar or grantee.

Transfers and bequests to persons out of line of succession.

(*V.—Transfers and Bequests. Secs. 16-18. VI.—Testamentary Succession. Secs. 19-20.*)

Transfers to be in writing signed and attested.

16. No transfer of any estate, or of any portion thereof, or of any interest therein, made by a taluqdar or grantee or by his heir or legatee under the provisions of this Act shall be valid unless made by an instrument in writing signed by the transferor and attested by two or more witnesses.

Further requisites to validity of gifts *inter vivos*.

17. If any such transfer be made by gift, the gift shall not be valid unless, within six months after the execution of the instrument of gift, the gift be followed by delivery by the donor, or his representative in interest, of possession of the property comprised therein, nor unless the instrument shall have been registered within one month from the date of its execution.

Gifts to religious or charitable uses.

18. No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee, shall have power to give his estate, or any portion thereof or interest therein, to religious or charitable uses, except by an instrument of gift executed not less than three months before his death, and subject to the provisions contained in section 17.

VI.—Testamentary Succession.

Sections of Succession Act applied to wills of taluqdars.

19. Sections 49, 50, 51, 54, 55 and 57 to 77 (both inclusive), and sections 82, 83, 85 and 88 to 98 (both inclusive), of the Indian Succession Act (No. X of 1865),¹ shall apply to all wills and codicils made by any taluqdar or grantee or by his heir or legatee, under the provisions of this Act, for the purpose of bequeathing to any person his estate, or any portion thereof, or any interest therein: Provided that marriage shall not revoke any such will or codicil: Provided also that nothing herein contained shall affect wills made before the passing of this Act.

In applying the said sections to wills and codicils made under this Act, all words hereinbefore defined, and occurring in such sections, shall (unless there be something repugnant in the subject or context) be deemed to have the same meaning as this Act has attached to such words respectively.

Bequests to religious and charitable uses.

20. No taluqdar or grantee, and no heir or legatee of a taluqdar or grantee having a child, parent, brother, unmarried sister, or a nephew being the naturally born son of a brother of such taluqdar or grantee, heir or legatee, shall have power to bequeath his estate or any part thereof or any interest therein exceeding in amount or value the sum of two thousand rupees to religious or charitable uses, except by a will executed not less than three months before his death, and registered within one month from the date of its execution.

¹ For Act X of 1865, see General Acts, Vol. I.

(VII.—Intestate Succession. Secs. 21-22.)

VII.—Intestate Succession.

21. In the next following section, unless where there is something repugnant in the context, the words "son," "descendants," "daughter" and "brother" apply only to *najib-ul-tarfain*, and the word "widow" applies only to a woman belonging to the *ahl-i-bradari* of her deceased husband.

"son," "descendants,"
"daughter,"
"brother,"
"widow,"
defined.

22. If any taluqdar or grantee whose name shall be inserted in the second, third or fifth of the lists mentioned in section 8, or his heir or legatee, shall die intestate as to his estate, such estate shall descend as follows, namely :—

Special rules
of succession
to intestate
taluqdars and
grantees.

- (1) to the eldest son of such taluqdar or grantee, heir or legatee, and his male lineal descendants, subject to the same conditions and in the same manner as the estate was held by the deceased ;
- (2) or if such eldest son of such taluqdar or grantee, heir or legatee, shall have died in his life-time, leaving male lineal descendants, then to the eldest and every other son of such eldest son, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid ;
- (3) or if such eldest son of such taluqdar or grantee, heir or legatee, shall have died in his father's life-time without leaving male lineal descendants, then to the second and every other son of the said taluqdar or grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid ;
- (4) or in default of such son or descendants, then to such son (if any) of a daughter of such taluqdar or grantee, heir or legatee, as has been treated by him in all respects as his own son, and to the male lineal descendants of such son, subject as aforesaid ;
- (5) or in default of such son or descendants, then to such person as the said taluqdar or grantee, heir or legatee, shall have adopted by a writing executed and attested in manner required in case of a will and registered, subject as aforesaid ;
- (6) or in default of such adopted son, then to the eldest and every other brother of such taluqdar or grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid ;
- (7) or in default of any such brother, then to the widow of the deceased taluqdar or grantee, heir or legatee ; or, if there be more widows than one, to the widow first married to such taluqdar or grantee, heir or legatee, for her life-time only ;

(VII.—*Intestate Succession. Sec. 23. VIII.—Maintenance. Sec. 24.*)

- (8) and upon the death of such widow, then to such son as the said widow shall, with the consent in writing of her deceased husband, have adopted by a writing executed and attested in manner required in case of a will and registered, subject as aforesaid ;
- (9) or on the death of such first married widow, and in default of a son adopted by her with such consent and in such manner as aforesaid, then to the other widow, if any, of such taluqdar or grantee, heir or legatee, next in order of marriage, for her life, and, on the death of such other widow, to a son adopted by her with such consent and in such manner as aforesaid ; or in default of such adopted son, then to the other surviving widows according to their respective seniorities as widows, for their respective lives, and on their respective deaths, to the sons so adopted by them respectively, and to the male lineal descendants of such sons respectively, subject as aforesaid ;
- (10) or in default of any such widow or of any son so adopted by her, or of any such descendant, then to the male lineal descendants, not being *najib-ul-tarfain*, of such taluqdar or grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, whether *najib-ul-tarfain* or not ;
- (11) or in default of any such descendant, then to such persons as would have been entitled to succeed to the estate under the ordinary law to which persons of the religion and tribe of such taluqdar or grantee, heir or legatee are subject.

Nothing contained in the former part of this section shall be construed to limit the power of alienation conferred by section 11.

General rule of succession to intestate taluqdars and grantees.

23. Except in the cases provided for by section 22, the succession to all property left by taluqdars and grantees, and their heirs and legatees, dying intestate, shall be regulated by the ordinary law to which members of the intestate's tribe and religion are subject.

VIII.—*Maintenance.*

Maintenance of surviving relatives of taluqdars and grantees.

24. When any taluqdar or grantee, or his heir or legatee, dies leaving him surviving such relatives as are hereinafter mentioned, the person for the time being in the possession of his estate or the rents and profits thereof shall be liable to pay to each of such relatives during his or her life, or for such other period as is hereinafter mentioned, by twelve equal monthly payments, an annuity in accordance with the custom of the country not exceeding such

(VIII.—Maintenance. Secs. 25-28.)

amount as is hereinafter mentioned : Provided that such relative was at the date of the death of the deceased living together with him : Provided also that such relative is and continues to be without any other adequate means of maintenance.

If any part of such estate shall have been transferred or bequeathed by the deceased, the person for the time being in possession of such part, or of the rents and profits thereof, shall be liable to pay proportionate parts of the said annuities during the continuance thereof respectively.

25. In the case of the grand-parents, parents and senior widows of the deceased, the maximum amount of the annuity shall be as follows:—

Grand-
parents,
parents and
senior widows.

- (a) where the annual revenue payable to Government in respect of the estate is or exceeds 1,50,000 rupees—a sum not exceeding 6,000 rupees :
- (b) where such revenue is or exceeds 1,00,000 rupees, but is less than 1,50,000 rupees—a sum not exceeding 2,400 rupees :
- (c) where such revenue is or exceeds 50,000 rupees, but is less than 1,00,000 rupees—a sum not exceeding 1,200 rupees :
- (d) where such revenue is or exceeds 25,000 rupees, but is less than 50,000 rupees—a sum not exceeding 600 rupees :
- (e) where such revenue is or exceeds 15,000 rupees, but is less than 25,000 rupees—a sum not exceeding 360 rupees :
- (f) where such revenue is or exceeds 7,000 rupees, but is less than 15,000 rupees—a sum not exceeding 240 rupees : and
- (g) where such revenue is less than 7,000 rupees—a sum not exceeding 180 rupees.

In the case of a junior widow of a deceased, the maximum amount of the annuity shall be one-half of the maximum amount to which a senior widow of the deceased would be entitled under the former part of this section.

Junior
widows.

26. In the case of brothers and minor sons of the deceased, the maximum amount of the annuity shall be a sum not more than 1,200 rupees.

Brothers and
minor sons.

In the case of nephews of the deceased, being fatherless minors, the maximum amount of the annuity shall be a sum not more than 600 rupees.

Nephews.

27. In the case of unmarried daughters of the deceased, widows of his sons and brothers, and his widows not of his *ahl-i-bradari*, the maximum amount of the annuity shall be a sum not more than 360 rupees.

Unmarried
daughters,
widows of sons
and brothers
and inferior
widows.
Continuance
of annuities.

28. Subject to the provisions hereinbefore contained, the said annuities shall continue—

- (a) in the case of a minor son or a minor nephew, till he ceases to be a minor :

(IX.—Miscellaneous. Secs. 29-31.)

(b) in the case of a daughter or widow, till she voluntarily leaves the household of the heir or legatee of the deceased, or would, according to the custom of the country, cease to be entitled to maintenance; and

(c) in all other cases, till the annuitant dies.

IX.—Miscellaneous.

Muhammadan taluqdars and grantees empowered to adopt.

29. Every Muhammadan taluqdar, grantee, heir or legatee, and every widow of a Muhammadan taluqdar or grantee, heir or legatee, with the consent in writing of her deceased husband, shall, for the purposes of this Act, have power to adopt a son whenever, if he or she were a Hindu, he or she might adopt a son.

Such power shall be exercisable only by writing executed and attested in manner required by section 19 in case of a will and registered.

Alteration of rules of intestate succession in cases of taluqdar and grantees named in list 3 or list 5.

30. Any taluqdar or grantee whose name has been entered in the third or fifth of the lists mentioned in section 8, or his heir or legatee, may, at any time hereafter, present to the ¹Chief Commissioner of Oudh a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of an instrument of gift, that he is desirous that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described in section 22, and that it shall in future be regulated by the ordinary law to which members of his tribe and religion are subject.

On receiving such declaration, the said ¹Chief Commissioner shall cause to be inserted the name of such taluqdar or grantee, heir or legatee in the fourth or sixth (as the case may be) of the lists mentioned in section 8, and shall cause a note thereof to be made in the proper place in the third or fifth (as the case may be) of the said lists, and the succession to such estate shall thenceforward, in case of intestacy, be regulated in the manner provided by section 23.

Reverter to ordinary law of succession.

31. Any taluqdar or grantee, heir or legatee may, at any time hereafter present to the ¹Chief Commissioner of Oudh a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of instruments of gift, that he is desirous that his estate should in future be held subject to the ordinary law of succession to which members of his tribe and religion are subject.

On receiving such declaration, the ¹Chief Commissioner shall cause a note thereof to be made in the proper places in each of the lists mentioned in section 8

¹ Now the Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902. Pt. I. p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

(IX.—Maintenance. Secs. 32-33. First Schedule.)

in which the name of such taluqdar or grantee, heir or legatee, has been entered, and thenceforward none of the provisions of this Act shall apply to such estate, which shall thenceforward be held subject in all respects to the ordinary law of succession to which members of his tribe and religion are subject.

32. Nothing hereinbefore contained shall affect any right which the creditors of any person making a transfer or bequest under the provisions of this Act would have possessed as against the property comprised in such transfer or bequest if this Act had not been passed. Savings of rights of creditors.

33. And whereas bodies of taluqdars have in several cases made awards respecting the provision to be made for certain relatives of taluqdars, and it is expedient to render such awards legally enforceable; It is hereby further enacted that every such award shall, if approved by the ¹ Financial Commissioner of Oudh and filed in his Court within six months after the passing of this Act, be enforceable as if a Court of competent jurisdiction had passed judgment according to the award and a decree had followed upon such judgment. Awards as to compensation and maintenance.

SCHEDULES.

FIRST SCHEDULE.

(See section 3.)

I.

From C. BEADON, Esq., Secretary to the Government of India, Foreign Department, to C. J. WINGFIELD, Esq., Chief Commissioner of Oudh,—(No. 6268, dated 10th October, 1859)

I AM directed by the Governor General in Council to acknowledge the receipt of your Secretary's letters noted in the margin, relative to the taluqdari settlement of Oudh.

2. His Excellency in Council, agreeing with you as to the expediency of removing all doubts as to the intention of the Government to maintain the taluqdars in possession of the taluqas for which they have been permitted to engage, is pleased to declare that every taluqdar with whom a summary settlement has been made since the re-occupation of the province has thereby acquired a permanent hereditary and transferable proprietary right, namely, in

¹ Read now "Board of Revenue of the United Provinces of Agra and Oudh." The Chief Commissioner of Oudh was subsequent to the passing of this Act invested with all the powers of the Financial Commissioner as Chief Controlling Revenue-authority in Oudh, see Notification No. 316, dated 22nd September, 1871, *Gazette of India*, 1871, Pt. I, p. 727; and under the United Provinces and Oudh Act, 1890 (20 of 1890), *infra*, p. 406, the Board of Revenue of the United Provinces of Agra and Oudh takes the place of the Chief Commissioner and Chief Controlling Revenue-authority in that Province.

(First Schedule.)

the taluqa for which he has engaged, including the perpetual privilege of engaging with the Government for the revenue of the taluqa.

3. This right is, however, conceded subject to any measure which the Government may think proper to take for the purpose of protecting the inferior zamindars and village-occupants from extortion, and of upholding their rights in the soil in subordination to the taluqdars.

4. The Governor General in Council desires that you will have ready, by His Excellency's arrival at Lucknow, a list of the taluqdars upon whom a permanent proprietary right has now been conferred ; and that you will prepare sanads to be issued to these taluqdars at that time. The sanads will be given by, and will run in the name of, the Chief Commissioner, acting under the authority of the Governor General.

5. I am directed to add that, as regards zamindars and others not being taluqdars, with whom a summary settlement has been made, the orders conveyed in the Limitation Circular No. 31 of the 28th of January, 1859, must not be strictly observed. Opportunity must be allowed at the next settlement to all disappointed claimants, to bring forward their claims, and all such claims must be heard and disposed of in the usual manner.

II.

From C. BEADON, Esq., Secretary to the Government of India, Foreign Department, with the Governor General, to Chief Commissioner, Oudh,—(No. 23, dated 19th October, 1859).

I AM directed by His Excellency the Governor General to acknowledge the receipt of your demi-official letter of the 15th instant, enclosing a form of sanad to be given to the taluqdars of Oudh, granting them a full and permanent proprietary right in the taluqas for which they have severally been permitted to engage at the summary settlement.

2. This form of sanad is generally approved, and a revised copy, with some few alterations, is herewith enclosed for adoption and for careful translation into the Hindustani language, in which the sanads will be prepared.

3. The sanads declare that while, on the one hand, the Government has conferred on the taluqdars and on their heirs for ever the full proprietary right in their respective estates, subject only to the payment of the annual revenue that may be imposed from time to time, and to certain conditions of loyalty and good service, on the other hand, all persons holding an interest in the land under the taluqdars will be secured in the possession of the subordinate rights which they have heretofore enjoyed.

4. The meaning of this is that, when a regular settlement of the province is made, wherever it is found that zamindars or other persons have held an

interest in the soil intermediate between the raiyat and the taluqdar, the amount or proportion payable by the intermediate holder to the taluqdar, and the net jama finally payable by the taluqdar to the Government, will be fixed and recorded after careful and detailed survey and inquiry into each case, and will remain unchanged during the currency of the settlement, the taluqdar being, of course, free to improve his income and the value of his property by the reclamation of waste-lands (unless in cases where usage has given the liberty of reclamation to the zamindar), and by other measures of which he will receive the full benefit at the end of the settlement. Where leases (pattas) are given to the subordinate zamindars, they will be given by the taluqdar, not by the Government.

5. This being the position in which the taluqdars will be placed, they cannot, with any show of reason, complain if the Government takes effectual steps to re-establish and maintain in subordination to them the former rights, as those existed in 1855, of other persons whose connexion with the soil is, in many cases, more intimate and more ancient than theirs; and it is obvious that the only effectual protection which the Government can extend to these inferior holders is to define and record their rights and to limit the demand of the taluqdars as against such persons during the currency of the settlement to the amount fixed by the Government as the basis of its own revenue-demand.

6. What the duration of the settlement shall be, and what proportion of the rent shall be allowed in each case to zamindars and taluqdars, are questions to be determined at the time of settlement.

The Governor General agrees in your observation that it is a bad principle to create two classes of recognized proprietors in one estate, and it is likely to lead to the alienation of a larger proportion of the land-revenue than if there were only one such class. But whilst the taluqdari tenure, notwithstanding this drawback, is about to be recognized and re-established, because it is consonant with the feelings and traditions of the whole people of Oudh, the zamindari tenure intermediate between the tenures of the taluqdar and the raiyat is not a new creation, and it is a tenure which, in the opinion of the Governor General, must be protected.

SECOND SCHEDULE.

(*See section 4.*)

- (1) Dig-Bijay Singh, Raja of Balrampur.
- (2) Rao Hardeo Bakhsh Singh, of Katari.
- (3) Kashi Parshad, Taluqdar of Sissendi.
- (4) Jhabba Singh, Zamindar of Gopal Khera.
- (5) Chandan Lal, Zamindar of Moraon (Baiswara).

ACT No. XIII OF 1869.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[19th March, 1869.]

An Act further to amend the Procedure of the High Court of
Judicature for the ²North-Western Provinces.

Preamble.

WHEREAS it is expedient to amend the procedure of the High Court of Judicature for the ²North-Western Provinces of the Presidency of Fort William; It is hereby enacted as follows:

1. [*Trial of Natives and European British subjects conjointly.*] *Rep. Act X of 1875.*

2. [*Record of evidence.*] *Rep. Act X of 1875.*

Power to
award costs
on petitions,
etc.

3. Whenever any petition, application or motion is made in any matter coming before the said Court in the exercise of its civil ³ or other jurisdiction, the Court shall have power to award and apportion costs in any manner it may think fit.

Penalty for
making false
statements in
support of
petitions, etc.

⁴4. Whenever the Court shall require the statements in support of any such petition, application or motion to be verified by a declaration in writing, the person making such verification shall, if any such statement is false, and if he either knows or believes it to be false, or does not believe it to be true, be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

ACT No. XXIV OF 1870⁴.

[APPLIES TO THE PROVINCE OF OUDH.]

[7th September, 1870.]

An Act to relieve from incumbrances the estates of Taluqdars in
Oudh.

Preamble.

WHEREAS many of the taluqdars of Oudh are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is

¹ For Statement of Objects and Reasons, see *Gazette of India*, 1868, p. 1681; and for Proceedings in Council, see *ibid.*, Supplement, pp. 1108 and 1109; and *ibid.*, 1869, Supplement, p. 464.

² Now Province of Agra, see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ The word "Criminal" is here omitted as so much of both ss. 3 and 4 as relates to criminal jurisdiction was repealed by the High Court's Criminal Procedure Act, 1875 (101 of 1875), s. 2. Act 10 of 1875 has since been repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898), but not so as to affect the repeal made here by that Act, see s. 6 of the General Clauses Act, 1897 (10 of 1897), General Acts, Vol. VI.

⁴ For Statement of Objects and Reasons, see *Gazette of India*, 1870, Pt. V, p. 161; for Proceedings in Council, see *ibid.*, 1870, Supplement, pp. 99, 855 and 1128.

expedient to provide for their relief in manner hereinafter appearing ; It is hereby enacted as follows :—

I.—Preliminary.

1. This Act may be called the Oudh Taluqdars' Relief Act.

Short title.

2. In this Act—

Interpreta-
tion-clause.

“ Chief Commissioner ” means the ¹Chief Commissioner of Oudh :

“ taluqdar ” means a person whose name is entered in the first of the lists mentioned in the ²Oudh Estates Act, 1869, section 8 :

“ heir ” means the person for the time being entitled under the same Act as heir to a taluqdar.

1 of 1869.

II.—Vesting Order.

3. Whenever, within twelve months after the passing of this Act, any taluqdar,

Power to vest
management
of taluqdar's
property in
officer ap-
pointed by
Chief Com-
missioner.

or (when such taluqdar is an infant, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

or the person who would be heir to such taluqdar if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee or other legal curator,

applies in writing to the ¹Chief Commissioner, stating that the taluqdar is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the ¹Chief Commissioner may, with the previous consent of the Governor General of India in Council, by order published in the local official Gazette appoint an officer (hereinafter called the manager), and vest in him the management of the immoveable property of or to which the taluqdar is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the taluqdar or his heir during the continuance of such management.

4. On such publication, the following consequences shall ensue :

Effect of
order—
bar of suits
against
taludqar.

first, all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in British India shall be barred ; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void ;

secondly, so long as such management continues,—

the taluqdar and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the taluqdar was immediately before the arrest,

Taluqdar
freed from
arrest,

¹ Now Lieutenant-Governor of the United Provinces of Agra and Oudh, and “ Lieutenant-Governor ”, respectively. see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902) s. 2. *infra*, p. 527.

² *Supra*, p. 130.

(III.—Duties of Manager. Sec. 5. IV.—Settlement of Debts. Sec. 6.)

said publication subject, or with which his immoveable property or any part thereof was then charged, other than debts due, or liabilities incurred, to Government ;

and his moveable property from attachment for prior debts.

nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid ; and

thirdly, so long as such management continues,—

cessation of his power to alienate :

(a) the taluqdar and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom ; and

immoveable property freed from attachment.

(b) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred to Government.

III.—Duties of Manager.

Manager to receive rents and profits,

5. The manager shall, during his management of the said property, receive and recover all rents and profits due in respect thereof ; and shall, upon receiving such rents and profits, give receipts for the same.

and pay therefrom—
(Government demand,

From the sums so received, he shall pay—

first, the Government revenue, and all debts or liabilities for the time being due or incurred to Government in respect of the said property :

annual sum for maintenance of taluqdar and his heir,

secondly, such annual sum as appears to the ¹Chief Commissioner requisite for the maintenance of the taluqdar, his heir and their families :

cost of repairs and improvements,

thirdly, the cost of such repairs and improvements of the property as appear necessary to the manager and are approved by the ¹Chief Commissioner :

costs of management, and debts and liabilities.

and the residue shall be applied in discharge of the costs of the management and in settlement of such debts and liabilities of the taluqdar and his heir and their immoveable property as may be established under the provisions hereinafter contained.

IV.—Settlement of Debts.

Notice to claimants against taluqdar.

6. On the publication of the order vesting in him the management of the said property, the manager shall publish in the local official Gazette a notice in

¹ Now Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

(IV.—Settlement of Debts. Secs. 7-10.)

English and Urdu, calling upon all persons having claims against the taluqdar or his immoveable property to notify the same in writing to such manager within three months from the date of the publication.

He shall also cause copies of such notice to be exhibited, at the tahsildars' kachahris in the district or districts in which the said property lies, and at such other places as the manager thinks fit.

Copies of notice to be exhibited.

7. Every such claimant shall, along with his claim, present full particulars thereof.

Claim to contain all particulars.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim.

Documents to be given up.

If the document be an entry in any book, the claimant shall produce the book to the manager, together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Exclusion of documents not produced.

8. Every debt or liability (other than debts due, or liabilities incurred, to Government) to which the taluqdar is subject, or with which his immoveable property or any part thereof is charged, and which is not duly notified to the manager within the time and in manner hereinbefore mentioned, shall be barred :

Debt or liability, not duly notified, to be barred.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of sections 6 and 7, the manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Provision for admission of claim within further period of nine months.

9. The manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdar and persons holding mortgages, charges or liens on the said property or any part thereof.

Determination of debts and liabilities.

10. An appeal against any refusal, admission or determination under section 7, 8 or 9 shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the manager is subordinate, and the decision of such Commissioner, or of the manager if no such appeal has been so preferred, shall be final.

Appeal.

(IV.—Settlement of Debts. Secs. 11-12. V.—Powers of Manager. Sec. 13.)

Scheme for settlement of debts and liabilities.

11. When the total amount of such debts and liabilities has been finally determined, the manager shall prepare and submit to the ¹Chief Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the ¹Chief Commissioner, shall be carried into effect.

Power to return scheme for revision.

Until such approval is given, the ¹Chief Commissioner may, as often as he thinks fit, send back such scheme to the manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

Restoration of taluqdar to property.

12. When all such debts and liabilities have been discharged, or if, within six months after the publication of the order mentioned in section 8, the ¹Chief Commissioner thinks that the provisions of this Act should not continue to apply to the case of the taluqdar or his heir,

the taluqdar or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the manager under the power contained in section 19, but subject to the leases and mortgages (if any) granted and made by the manager under the powers hereinafter contained.

Revival of barred proceedings and debts.

Where the taluqdar or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions and attachments mentioned in [section 4]² (so far as they relate to debts and liabilities not settled by the manager), and the debts and liabilities barred by section 8, shall be revived, and any mortgagee dispossessed under section 17 shall be re-instated unless his claim under the mortgage has been satisfied;

and, in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in section 3 shall be excluded.

V.—Powers of Manager.

Power to call for further particulars.

13. The manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

¹ Now Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

² This word and figure was substituted for the word and figure "section 3" by the Repealing and Amending Act, 1891 (12 of 1891), s. 2 (2), General Acts, Vol. VI.

(V.—Powers of Manager. Secs. 14-19.)

14. For the purposes of this Act, the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.¹

Power to summon witnesses and compel production of documents.

15. The manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

Power to administer oaths.

16. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.²

Investigation to be deemed judicial proceeding.

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And every statement made by any person examined by or before the manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Statements of persons examined to be evidence.

17. The manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as the taluqdar would have had for such purpose if this Act had not been passed.

Manager to have powers of taluqdar.

And if such property, or any part thereof, be in the possession of any mortgagee, the manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the manager as if a decree therefor had been made in his favour; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

Power to remove mortgagee in possession.

18. Subject to the rules made under section 20, the manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to lease.

19. The manager, with the previous assent of the ³ Chief Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the taluqdar is subject, or with which his immoveable property or any part thereof is charged, by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

Power to raise money by mortgage or sale.

¹ See now Act 14 of 1882, as modified up to 1st December, 1889.

² For Act 45 of 1860, see the revised edition, as modified up to 1st April, 1903.

³ Now "Lieutenant-Governor of the United Provinces of Agra and Oudh", see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, Pt. 1, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

or by selling, with the previous consent of the taluqdar and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this section shall be bound to see that such money is wanted or that no more than is wanted is raised.

Manager's receipts.

And the receipt of the manager for any moneys paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under section 5, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exerciseable until six months have elapsed from the publication of the order mentioned in section 3.

VI.—Miscellaneous.

Power to make rules.

20. The ¹Chief Commissioner may, from time to time, make rules² consistent with this Act in all matters connected with its enforcement.

Such rules, when approved by the Governor General of India in Council and published in the local official Gazette, shall have the force of law.

Power to appoint new managers.

21. Whenever the ¹Chief Commissioner thinks fit, he may appoint any officer to be a manager in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

Managers to be public servants.

22. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.³

XLV of 1860.

Bar of suits.

23. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Petitions, etc., under Act exempt from court-fees. Saving of jurisdiction of Courts in Oudh in respect of certain suits.

24. No petition, application, memorandum of appeal or other proceeding under this Act shall be chargeable under the Court-fees Act, 1870.⁴

VII of 1870.

25. Nothing in this Act precludes the Courts of the Province of Oudh having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party.

¹ Now Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

² For rules, see *Oudh Gazette*, 1871, p. 197.

³ For Act 45 of 1860, see the revised edition, as modified up to 1st April, 1903.

⁴ For Act 7 of 1870, see the revised edition, as modified up to 1st October, 1899.

ACT No. XXI OF 1871.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[11th July, 1871.]

An Act to give validity to the operation of the General Regulations and Acts within the Dehra Dun.

WHEREAS it is necessary to give validity to the operation of the general Regulations and Acts within the district under the Superintendent of the Dehra Dun * * * *²; It is hereby enacted as follows:—

1. The Regulations and Acts now in force in the district of Saharanpur are hereby declared to extend to the said district of Dehra Dun³ * * * *.
2. The High Court and the Board of Revenue of the North-Western Provinces shall exercise * * * *⁴ respectively, in the said district, all the powers which the said High Court or Board of Revenue are at present respectively authorized to exercise in any part of the North-Western Provinces.
3. The District Court of Saharanpur shall be * * * *⁵ the District Court of such district until the Local Government otherwise directs⁶ * * *.
4. Nothing in this Act shall apply to that portion of the Dehra Dun District called⁷ Jaunsar Bawar * * * *.

Extension of Regulations and Acts in force in Saharanpur to Dehra Dun. Jurisdiction of High Court and Board of Revenue over Dehra Dun.

District Court of Saharanpur to be District Court of Dehra Dun.

Exemption of Jaunsar Bawar.

¹ For Statement of Objects and Reasons, see *Gazette of India*, 1871, Pt. V, p. 221; for Proceedings in Council, see *ibid.*, Supplement, pp. 907 and 1050.

² The words "and to indemnify all officers and other persons who have acted in the said district under the said Regulations and Acts" were repealed by the Repealing Act, 1874 (16 of 1874).

³ The words "and no judgment heretofore given, order passed or proceeding had in the said district, shall be deemed to have been or to be invalid merely because any Regulation or Act, under or in reference to which such judgment, order or proceeding was given, passed or had was not in force at the time of such judgment, order or proceeding, or on the ground of a defect of jurisdiction in any Court or officer" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

⁴ The words "and shall be deemed to have been heretofore authorized to exercise" were repealed by Act 12 of 1891.

⁵ Now "the Province of Agra" see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

⁶ The words "deemed to have been heretofore the District Court of the said district of Dehra Dun, and" were repealed by Act 12 of 1891.

⁷ The words "and may, subject to the provisions of Act VI of 1871, hear appeals from decisions given in the said district before the passing of this Act" at the end of s. 3 were repealed by Act XII of 1891.

⁸ "Jaunsar Bawar" is one of the scheduled districts of the Province of Agra, see the Scheduled Districts Act, 1874 (14 of 1874), First Schedule, Pt. IV, General Acts, Vol. II, and the United Provinces (Designation) Act, 1902 (VII of 1902), *infra*, p. 527.

⁹ The words "and referred to in section 11 of Act XXIV of 1864" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

ACT No. XXII OF 1871.¹

[APPLIES TO THE UNITED PROVINCES.]

[1st August, 1871.]

An Act to authorize the extension of the Chaukidari Act to places where there is no Jamadar of Police.

Preamble.

WHEREAS by Act XX of 1856² (*to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal*), section 2, the Local Government is restrained from extending that Act to any city, town, suburb or bazar, unless there be therein (or in some other city, town, suburb or bazar with which the same may be united as hereinafter provided), a police-station under an officer of a grade not below that of a jamadar; and whereas it is expedient to remove such restriction and in other respects to amend the said Act; It is hereby enacted as follows:—

Amendment
of section 2,
Act XX of
1856.

1. Instead of the second section of the said Act, the following shall be read:—

[*Supra*, p. 87.]Amendment
of section 11.

2. Instead of section 11 of the said Act, the following shall be read:—

[*Supra*, p. 88.]Amendment
of section 33.

3. Instead of section 33 of the said Act, the following shall be read:—

[*Supra*, p. 93.]Amendment
of section 41

4. In the 41st section of the said Act, instead of the words “on the twentieth of each calendar month” there shall be read the words “on the tenth day after the date fixed for the payment of instalments of the tax”.

5. [*Repeal of parts of Appendices A and C.*] *Rep. Act XII of 1891.*

Construction.

6. This Act shall be read with, and taken as part of, the said Act XX² of 1856 * * * *.

¹For Statement of Objects and Reasons, see *Gazette of India*, 1870, Pt. V, p. 498; for Proceedings in Council, see *ibid.*, Supplement, pp. 1328 and 1349; and *ibid.*, 1871, p. 1077. Act 22 of 1871 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the scheduled portion of the Mizapur District and in Jannsar Bawar, and it was extended, by notification under the same Act, to Kumaon and Garhwal and the Tarai Parganas—see Appendix, pp. 997, 975, 1022 and 1010. Act 22 of 1871 has been declared to be one of the laws to be administered by the Courts in Oudh, see the Oudh Laws Act, 1876 (18 of 1876), s. 3 (e), *infra*, p. 189.

Short title, the Bengal Chaukidari (Amendment) Act, 1871, see the Repealing and Amending Act, 1903 (1 of 1903), Bengal Code, Vol. I, p. 20.

²*Supra*, p. 86.

³In Oudh s. 6 is repealed, see the Oudh Laws Act, 1876 (18 of 1876), Sch. II, *infra*, p. 209.

⁴The words “but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal” were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

THE CRIMINAL TRIBES' ACT, 1871.

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ACT No. XXVII OF 1871.¹

[APPLIES TO THE UNITED PROVINCES.]

[12th October, 1871.]

An Act for the Registration of Criminal Tribes and Eunuchs.

Preamble.

WHEREAS it is expedient to provide for the registration, surveillance and control of certain criminal tribes and eunuchs; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Criminal Tribes' Act, 1871.

[Commencement.] *Rep. Act XVI of 1874, section 1 and Schedule, Part I.*

Local extent.

This section and section 20 extend to the whole of British India: the rest of this Act extends only to the territories under the governments of the Lieutenant-Governors of [Bengal,]² the North-Western Provinces³ and the Punjab respectively, and under the administration of the Chief Commissioner of Oudh³:

⁴ Provided that any Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare all or any of the provisions of this Act, as amended by

¹ For Statement of Objects and Reasons, see *Gazette of India*, 1870, Pt. V, p. 491; and for Proceedings in Council, see *ibid.*, Supplement, pp. 1200 and 1344; and *ibid.*, 1871, p. 1415.

Act 27 of 1871 was extended under section 5 of the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to the Tarai Parganas of the Province of Agra, see Notification No. 1554, dated 22nd September, 1876, *infra*, Appendix, p. 997.

² The word "Bengal" was added by the Criminal Tribes' (Amendment) Act, 1876 (7 of 1876), s. 1, *infra*, p. 195.

³ These provinces are now known as the United Provinces of Agra and Oudh, and the Lieutenant-Governor and Chief Commissioner as the Lieutenant-Governor of those Provinces, see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

⁴ This proviso was added by section 2 of the Criminal Tribes' Amendment Act, 1897 (2 of 1897), *infra*, p. 442.

(Sec. 1A. Part I.—Criminal Tribes. Secs. 2-5.)

subsequent legislation, to be in force in the whole or any part of the territories under its government.

1A. 'In this Act the words "tribe," "gang" and "class" shall be deemed to include any portion or members of a tribe, gang or class.

Definition of tribe, gang and class.

PART I.

CRIMINAL TRIBES.

2. If the Local Government has reason to believe that any tribe, gang or class of persons is addicted to the systematic commission of non-bailable offences, it may report the case to the Governor General in Council, and may request his permission to declare such tribe, gang or class to be a criminal tribe.

Local Government to report what tribes should be declared criminal.

3. The report shall state the reasons why such tribe, gang or class is considered to be addicted to the systematic commission of non-bailable offences, and, as far as possible, the nature and the circumstances of the offences in which the members of the tribe are supposed to have been concerned; and shall describe the manner in which it is proposed that such tribe, gang or class shall earn its living when the provisions hereinafter contained have been applied to it.

Report to contain certain particulars.

4. If such tribe, gang or class has no fixed place of residence, the report shall state whether such tribe, gang or class follows any lawful occupation, and whether such occupation is, in the opinion of the Local Government, the real occupation of such tribe, gang or class, or a pretence for the purpose of facilitating the commission of crimes, and shall set forth the grounds on which such opinion is based; and the report shall also specify the place of residence in which such wandering tribe, gang or class is to be settled under the provisions hereinafter contained, and the arrangements which are proposed to be made for enabling it to earn its living therein.

Occupation of wandering tribe to be stated;

also proposed residence and means of livelihood.

5. If, upon the consideration of any such report, the Governor General in Council is satisfied that the tribe, gang or class to which it relates ought to be declared criminal, and that the means by which it is proposed that such tribe, gang or class shall earn its living are adequate, he may authorize the Local Government to publish in the Local Gazette a notification² declaring that such tribe, gang or class is a criminal tribe, and thereupon the provisions of this Act shall become applicable to such tribe, gang or class.

Notification declaring tribe to be criminal.

¹S. 1A was added by section 3 of the Criminal Tribes' Amendment Act, 1897 (2 of 1897), *infra*, p. 442.

² For notifications declaring certain tribes to be Criminal Tribes, see N.-W. P. and Oudh Gazette, 1874, p. 701, and *ibid.*, 1884, Pt. I, p. 317.

(Part I.—Criminal Tribes. Secs. 6-12.)

Bar of jurisdiction of Courts in questions relating to notification.

6. No Court of Justice shall question the validity of any such notification on the ground that the provisions hereinbefore contained, or any of them, have not been complied with, or entertain in any form whatever the question whether they have been complied with; but every such notification shall be conclusive proof that the provisions of this Act are applicable to the tribe, gang or class specified therein.

Register of members of such tribes.

7. When the notification mentioned in section 5 has been published, the Local Government may direct the Magistrate of any district in which such tribe, gang or class, or any part thereof, is at the time resident, to make a register of the members of such tribe, gang or class, or of any part thereof.

The declaration of the Local Government that any such tribe, gang or class, or any part of it, is resident in any district, shall be conclusive proof of such residence.

Procedure in making register.

8. Upon receiving such direction, the said Magistrate shall publish a notice in the place where the register is to be made, calling upon all the members of such tribe, gang or class, or of such portion thereof as is directed to be registered, to appear, at a time and place therein specified, before such persons as he appoints and to give those persons such information as may be necessary to enable them to make the register.

Penalties for failing to appear, refusing or giving false information.

9. Any member of any such tribe, gang or class who, without lawful excuse, the burthen of proving which shall lie upon him,

shall fail to appear according to such notice,

or who shall intentionally omit to furnish such information,

or who shall furnish, as true, information on the subject which he knows or has reason to believe to be false,

shall be deemed guilty of an offence under the first parts of section 174 or 176 or 177 of the Indian Penal Code¹, respectively, as the case may be.

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Charge of register.

Reporting desirable alterations.

10. The register, when made, shall be kept by the District Superintendent of Police, who shall, from time to time, report to the said Magistrate any alterations which ought to be made therein, either by way of addition or erasure.

By whom alterations to be made. Notice to persons affected.

11. No alteration shall be made in such register except by or by order of the said Magistrate, and he shall write his initials against every such alteration. Notice shall be given of any such intended alteration, and of the time when, and place where, it is to be made, to every person affected thereby.

Complaints of entries in register.

12. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register, either when the register is first made

¹ For Act 45 of 1860, see the revised edition, as modified up to 1st April, 1903.

(Part I.—Criminal Tribes. Secs. 13-17A.)

or subsequently, may complain to the said Magistrate against such entry, and the Magistrate shall retain such person's name on the register or enter it therein, or erase it therefrom, as he may see fit.

Every order for the erasure of any such person's name shall state the grounds on which such person's name is erased.

The Commissioner shall have power to review any order of entry, retention or erasure, passed by the said Magistrate on any such complaint, either on appeal by the person registered or proposed to be registered or otherwise.

13. Any tribe, gang or class, which has been declared to be criminal, and which has no fixed place of residence, may be settled in a place of residence prescribed by the Local Government.

Settlement of tribe in place prescribed by Local Government. Removal to other place.

14. Any tribe, gang or class, which has been declared to be criminal, or any part thereof, may, by order of the Local Government, be removed to any other place of residence.

15. No tribe, gang or class, shall be settled or removed under the provisions of this Act until such arrangements as the Local Government shall, with the concurrence of the Governor General in Council, consider suitable, have been made for enabling such tribe, gang or class, or such part thereof as is to be so settled or removed, to earn a living in the place in or to which it is to be settled or removed.

Arrangements to be made prior to settlement or removal.

16. When the removal of any persons has been ordered under this Act, the register of such persons' names shall be transferred to the District Superintendent of Police of the district to which such persons are removed, and the Magistrate of the said district and the Commissioner of the division in which it is situated, shall thereupon be empowered to exercise respectively the powers provided in sections 11 and 12.

Transfer of register of persons ordered to be removed.

17. The Local Government may, with the sanction of the Governor General in Council, place any tribe, gang or class, which has been declared to be criminal, or any part thereof, in a reformatory settlement.

Power to place tribe in reformatory settlement.

17A.¹ (1) The Local Government may establish and maintain reformatory settlements for children and may separate and remove from their parents and place in such a reformatory settlement the children of the registered members of any tribe, gang or class which has been declared to be criminal.

Power to place children in reformatory settlements established for children and to apprentice them.

(2) For every reformatory settlement for children established under sub-section (1) a Superintendent shall be appointed by the Local Government.

¹ S. 17A was added by section 4 of the Criminal Tribes' Amendment Act, 1897 (2 of 1897), *infra*, p. 442.

(Part I.—Criminal Tribes. Sec. 18.)

(3) The Superintendent of a reformatory settlement for children shall be deemed to be the guardian, within the meaning of Act No. XIX of 1850¹ (*concerning the binding of apprentices*), of every child detained in such settlement; and such Superintendent may, if he shall think fit, and subject to any rules which the Local Government may make in this behalf, apprentice such child under the provisions of the aforesaid Act.

Explanation.—The term “children” in this section includes all persons under the age of eighteen and above the age of four years.

Power to
make rules.

18. The Local Government may, with the previous consent of the Governor General in Council, make rules² to prescribe—

- (1) the form in which the register shall be made by the said Magistrate;
- (2) the mode in which the said Magistrate shall publish the notice prescribed in section 8, and the means by which the persons whom it concerns, and the headmen, village-watchmen and landowners or occupiers of the village, in which such persons reside,³ [or the agents of such landowners or occupiers] shall be informed of its publication;
- (3) the mode in which the notice prescribed in section 11 shall be given;
- (4) the limits within which persons whose names are on the register shall reside;
- (5) conditions as to holding passes, under which such persons may be permitted to leave the said limits;
- (6) conditions to be inserted in any such pass as to—
 - (a) the places where the holder of the pass may go or reside;
 - (b) the officers before whom, from time to time, he shall be bound to present himself;
 - (c) and the time during which he may absent himself;
- (7) conditions as to answering at roll-call or otherwise, in order to satisfy the said Magistrate or persons authorized by him, that the persons whose names are on the register are actually present at given times within the said limits;
- (8) the inspection of the residences and villages of any such tribe, gang or class, and the prevention or removal of contrivances for enabling the residents therein to conceal stolen property, or to leave their place of residence without leave;
- (9) the terms upon which registered persons may be discharged from the operation of this Act;
- (10) the mode in which criminal tribes shall be settled and removed;

¹ General Acts, Vol. I.

² For rules, see those noted on pp. 31 and 32 of list 4 of the United Provinces List of Local Rules and Orders, Ed. 1904, Vol. I, Pt. I.

³ These words were inserted in sub-section (2) of s. 18 by s. 2 of the Criminal Tribes (Amendment) Act, 1876 (7 of 1876), *infra*, p. 195.

(Part I.—Criminal Tribes. Secs. 19-19A.)

- (11) the control and supervision of reformatory settlements ;
- (12) the works on which, and the hours during which, persons placed in a reformatory settlement shall be employed, the rates at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour, after defraying the whole or such part of the expenses of their supervision and control as to the Local Government shall seem fit ;
- (13) the discipline to which persons endeavouring to escape from any such settlement, or otherwise offending against the rules for the time being in force, shall be submitted; the periodical visitation of such settlement, and the removal from it of such persons as it shall seem expedient to remove ;
- (14) and, generally, to carry out the purposes of this Act.

¹19. (1) Any person registered under this Act violating a rule made under clause (4), clause (5) or clause (6) of section 18 shall be punishable with rigorous imprisonment for a term which may extend, on a first conviction, to one year, on a second conviction to two years, and, on any subsequent conviction, to three years, and shall also, whether on the first or any subsequent conviction, be liable to whipping.

Penalties
for breach
of rules.

(2) Any person being a member of a proclaimed tribe violating a rule made under any other clause of section 18 shall be punishable with rigorous imprisonment for a term which may extend to six months, or with fine, or with whipping, or with all or any two of those punishments; and, on any subsequent conviction for a breach of any such rule, with rigorous imprisonment for a term which may extend to one year, or with fine, or with whipping, or with all or any two of those punishments.

²19A. Whoever, being a member of any tribe, gang or class which has been declared criminal, and having been convicted of any of the offences under the Indian Penal Code³ specified in the schedule to this Act, shall thereafter be convicted of the same or any other offence specified in the said schedule, then he shall, in the absence of special reasons to the contrary to

Enhanced
punishment
for certain
offences
by members
of criminal
tribe after
previous
conviction.

XLV of 1890.

¹ S. 19 as it now stands was substituted by s. 5 of the Criminal Tribes' Amendment Act, 1897 (2 of 1897), *infra*, p. 442.

The original section was as follows:—

“Any person violating any of the rules made under section 18 shall be punished with rigorous imprisonment for a term which may extend to six months, or with fine, or with whipping, or with all or any two of those punishments; and on any second conviction for a breach of any of the said rules, with rigorous imprisonment which may extend to one year, or with fine, or with whipping, to be inflicted in the manner prescribed by any law in force for the time being in relation to whipping, or with all or any two of those punishments.”

² S. 19A was added by s. 6 of the Criminal Tribes' Amendment Act, 1897 (2 of 1897), *infra*, p. 442.

³ See the revised edition, as modified up to 1st April, 1903.

be mentioned in the judgment of the Court, be punished, on such second conviction, with rigorous imprisonment for a term of not less than seven years, and on a third conviction with transportation for life.

Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law. XLV of 1860.

Punish-
ment for
members of
criminal
tribe found
under suspi-
cious circum-
stances.

²19B. Whoever, being a registered member of any tribe, gang or class which has been declared criminal, is found in any place under such circumstances as to satisfy the Court that he was about to commit, or aid in the commission of, theft or robbery, or that he was waiting for an opportunity to commit theft or robbery, shall be punishable with rigorous imprisonment for a term which may extend to three years, and shall also be liable to fine.

Arrest of
registered
person
found be-
yond pre-
scribed
limits.

20. Any person registered under the provisions of this Act, who is found in any part of British India, beyond the limits so prescribed for his residence, without such pass as may be required by the said rules, or in a place or at a time not permitted by the conditions of his pass,

or who escapes from a reformatory settlement,

may be arrested without warrant by any police-officer or village-watchman, and taken before a Magistrate, who, on proof of the facts, shall order him to be removed to the district in which he ought to have resided, or to the reformatory settlement from which he has escaped (as the case may be), there to be dealt with according to the rules under this Act for the time being in force.

The rules for the time being in force for the transmission of prisoners shall apply to all persons removed under this section: Provided that an order from the Local Government or from the Inspector General of Prisons shall not be necessary for the removal of such persons.

Duties of
village-
headmen,
village-
watchmen,
etc.

21. It shall be the duty of every village-headman and village-watchman in a village in which any persons belonging to a tribe, class or gang which has been declared criminal reside, and of every owner or occupier of land on which any such persons reside, ³[or of the agent of any such owner or occupier], to give the earliest information in his power at the nearest police-station of—

(1) the failure of any such person to appear and give information as directed in section 8;

¹ For Act 45 of 1860, see the revised edition, as modified up to 1st April, 1903.

² S. 19B was added by s. 6 of the Criminal Tribes' Amendment Act, 1897 (2 of 1897), *infra*, p. 441.

³ These words were inserted in s. 21 by s. 2 of the Criminal Tribes' (Amendment) Act, 1876 (7 of 1876), *infra*, p. 195.

(Part I.—Criminal Tribes. Secs. 22-23. Part II.—Eunuchs. Secs. 24-25.)

(2) the departure of any such person from such village or from such land (as the case may be).

And it shall be the duty of every village-headman and village-watchman in a village, and of every owner or occupier of land, ¹[or of the agent of such owner or occupier,] to give the earliest information in his power at the nearest police-station of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any such tribe, class or gang.

22. Any village-headman, village-watchman, owner or occupier of land ¹[or the agent of such owner or occupier] who shall fail to comply with the requirements of section 21, shall be deemed to have committed an offence under the first part of section 176 of the Indian Penal Code.²

Penalty
for breach
of such duties.

XLV of 1860.

23. [*Indemnity for past registration and detentions*]. Rep. Act XII of 1876, section 1, and Schedule, Part I.

PART II.

EUNUCHS.

24. The Local Government shall cause the following registers to be made and kept up by such officer as, from time to time, it appoints in this behalf :—

Registers
of eunuchs
and their
property.

(a) a register of the names and residences of all eunuchs residing in any town or place to which the Local Government specially extends this part of this Act, who are reasonably suspected of kidnapping or castrating children or of committing offences under section 377 of the Indian Penal Code², or of abetting the commission of any of the said offences ; and

XLV of 1860.

(b) a register of the property of such of the said eunuchs as, under the provisions hereinafter contained, are required to furnish information as to their property.

The term “eunuch” shall, for the purposes of this Act, be deemed to include all persons of the male sex who admit themselves, or on medical inspection clearly appear, to be impotent.

“Eunuch”
defined.

25. Any person deeming himself aggrieved by any entry made or proposed to be made in such register, either when the register is first made or

Complaints
of entries
in register.

¹ These words were inserted in ss. 21 and 22 by s. 2 of the Criminal Tribes (Amendment) Act, 1876 (7 of 1876), *infra*, p. 195.

² For Act 45 of 1860, see the revised edition, as modified up to 1st April, 1903.

³ For notifications appointing officers to keep these registers in the Provinces of Agra and Oudh, see those noted on p. 32 of list 4 of the List of Local Rules and Orders, Ed. 1904, Vol. I, Pt. I.

subsequently, may complain to the said officer, who shall enter such person's name, or erase it, or retain it, as he sees fit.

Every order for erasure of such person's name shall state the grounds on which such person's name is erased.

The Commissioner shall have power to review any order passed by such officer on such complaint, either on appeal by the complainant or otherwise.

26. Any eunuch so registered who appears, dressed or ornamented like a woman, in a public street or place, or in any other place, with the intention of being seen from a public street or place,

or who dances or plays music, or takes part in any public exhibition, in a public street or place or for hire in a private house,

may be arrested without warrant, and shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

27. Any eunuch so registered who has in his charge, or keeps in the house in which he resides, or under his control, any boy who has not completed the age of sixteen years, shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

28. The Magistrate may direct that any such boy shall be returned to his parents or guardians, if they can be discovered. If they cannot be discovered, the Magistrate may make such arrangements as he thinks necessary for the maintenance and education of such boy, and may direct that the whole or any part of a fine inflicted under section 27 may be employed in defraying the cost of such arrangements.

The Local Government may direct out of what local or municipal fund so much of the cost of such arrangements as is not met by the fine imposed shall be defrayed.

29. No eunuch so registered shall be capable—

- (a) of being or acting as guardian to any minor,
- (b) of making a gift,
- (c) of making a will, or
- (d) of adopting a son.

30. Any officer authorized by the Local Government in this behalf may, from time to time, require any eunuch so registered to furnish information as to all property, whether moveable or immovable, of or to which he is possessed or entitled, or which is held in trust for him.

Any such eunuch intentionally omitting to furnish such information, or furnishing, as true, information on the subject which he knows, or has reason

Penalty on registered eunuch appearing in female clothes;

or dancing in public, or for hire.

Penalty on registered eunuch keeping boy under sixteen.

Maintenance and education of boys whose parents cannot be found.

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Power to require information as to registered eunuch's property.

Penalty for refusing such information.

(Part II.—*Eunuchs. Sec. 31. Schedule.*)

to believe, to be false, shall be deemed to have committed an offence under section 176 or 177 of the Indian Penal Code,¹ as the case may be.

XLV of 1860.

31. The Local Government may, with the previous sanction of the Governor General in Council, make rules² for the making and keeping up and charge of registers made under this part of the Act.

Rules for making and keeping up registers of eunuchs.

THE SCHEDULE.³

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XLV of 1860.

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¹ For Act 45 of 1860, see the revised edition, as modified up to 1st April, 1903.

² For rules for the Provinces of Agra and Oudh respectively, see those noted on p. 32 of list 4 of the United Provinces List of Local Rules and Orders, 1904, Vol. I, Pt. I.

³ The schedule was added by s. 7 of the Criminal Tribes Amendment Act, 1897 (2 of 1897), *infra*, p. 412.

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THE NORTHERN INDIA CANAL AND DRAINAGE ACT,
1873.

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(Part I.—Preliminary. Secs. 1-3.)

ACT No. VIII OF 1873.¹

[APPLIES TO THE UNITED PROVINCES.]

[11th February, 1873.]

An Act to regulate Irrigation, Navigation and Drainage in Northern India.

Preamble.

WHEREAS, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to Irrigation, Navigation and Drainage in the said territories; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called the Northern India Canal and Drainage Act, 1873.

Local extent.

It extends to the territories for the time being respectively under the government of the Lieutenant-Governors of the ²North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of ³Oudh and the Central Provinces; and applies to all lands whether permanently settled, temporarily settled or free from revenue.

[Commencement]. *Rep. by the Repealing Act, 1874 (XVI of 1874).*

2. [Repeal of Acts]. *Rep. by the Repealing Act, 1873 (XII of 1873).*

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

(1) “canal”³ includes—

- (a) all canals, channels and reservoirs constructed, maintained or controlled by Government for the supply or storage of water;
- (b) all works, embankments, structures, supply and escape channels connected with such canals, channels or reservoirs;
- (c) all water-courses as defined in the second clause of this section;

¹ For Statement of Objects and Reasons, see Gazette of India, 1872, Pt. V, p. 651; for Reports of Select Committee, see *ibid.*, p. 747, and *ibid.*, Supplement, 1873, p. 223; for Proceedings in Council, see *ibid.*, Supplement, pp. 919, 956 and 1081; *ibid.*, 1873, Supplement, pp. 54, 156, 223, 246 and 279.

Act 8 of 1873 has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to the Tarai Parganas—see Appendix, p. 998.

² Now the United Provinces of Agra and Oudh. The Lieutenant-Governor and Chief Commissioner is the Lieutenant-Governor of these Provinces, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

³ But see s. 74, *infra*, p. 191.

(Part I.—Preliminary. Sec. 4.)

(d) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act :

(2) “water-course” means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel :

(3) “drainage-work” includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns :

(4) “vessel”¹ includes boats, rafts, timber and other floating bodies :

(5) “Commissioner” means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner :

(6) “Collector”² means the head Revenue-officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector :

(7) “Canal-officer” means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof :

“Superintending Canal-officer” means an officer exercising general control over a canal or portion of a canal :

“Divisional Canal-officer” means an officer exercising control over a division of a canal :

“Sub-divisional Canal-officer” means an officer exercising control over a sub-division of a canal :

(8) “district” means a district as fixed for revenue purposes.

4. The Local Government may, from time to time, declare by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed. Power to appoint officers.

All officers mentioned in section 3, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

¹ Cf. definition in s. 3 (56), General Clauses Act, 1897 (10 of 1897), General Acts, Vol. VI.

² Cf. definition in s. 3 (10), General Clauses Act, 1897 (10 of 1897), General Acts, Vol. VI.

(Part II.—Of the Application of Water for Public Purposes. Secs. 5-8.)

PART II.

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

Notification
to issue when
water-supply
is to be ap-
plied for pub-
lic purposes.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake, or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work,

the Local Government may, by notification ¹ in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of
Canal-officer.

6. At any time after the day so named, any Canal-officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to
claims for
compensation.

7. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 8 may be made before him.

Damage for
which com-
pensation
shall not be
awarded.

8. No compensation shall be awarded for any damage caused by—

- (a) stoppage or diminution of percolation or floods ;
- (b) deterioration of climate or soil ;
- (c) stoppage of navigation, or of the means of drifting timber or watering cattle ;
- (d) displacement of labour.

Matters in
respect of
which com-
pensation may
be awarded.

But compensation may be awarded in respect of any of the following matters :—

- (e) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification ;
- (f) stoppage or diminution of supply of water to any work erected for purposes of profit or any channel, whether natural or artificial, in use at the date of the said notification ;
- (g) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification ;

¹ For notification declaring that the waters of certain streams shall be applied to public purposes, see those noted on p. 33 of list 4 of the United Provinces Local Rules and Orders, Ed. 1904, Vol. I, Pt. I.

(Part II.—Of the Application of Water for Public Purposes. Secs. 9-10.)

IX of 1871.

(h) damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1871, Part IV;¹

(i) any other substantial damage, not falling under any of the above clauses (a), (b), (c) or (d), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and, where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property caused by the exercise of the powers conferred by this Act.

IX of 1871.

No right to any such supply of water as is referred to in clause (e), (f) or (g) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1871, Part IV.¹

And no right to any of the advantages referred to in clauses (a), (b) and (c) of this section shall be acquired, as against the Government, under the same Part.

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of claims.

X of 1870.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant; and sections 9 to 12 (inclusive), 14 and 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51, 57, 58 and 59 of the Land Acquisition Act, 1870,² shall apply to such enquiries:

Enquiry into claims and amount of compensation.

Provided that, instead of the last clause of the said section 26, the following shall be read: "The provisions of this section and of section 8 of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

¹ See now the Indian Limitation Act, 1877 (15 of 1877), as modified up to the 31st December, 1900.

² See now the Land Acquisition Act, 1894 (I of 1894), as modified up to 1st April, 1903; s. 25 of that Act corresponds to s. 26 of the Act of 1870, but it does not contain a clause similar to the last clause of s. 26 referred to in the proviso to s. 10 above.

(Part II.—Of the Application of Water for Public Purposes. Secs. 11-13.

Part III.—Of the Construction and Maintenance of Works. Sec. 14.)

Abatement of
rent on inter-
ruption of
water-supply.

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section 8, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Enhancement
of rent on
restoration of
water-supply.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensation
when due.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of,

Interest.

and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

PART III.

OF THE CONSTRUCTION AND MAINTENANCE OF WORKS.

Power to enter
and survey,
etc.

14. Any Canal-officer or other person acting under the general or special order of a Canal-officer,

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon ;

and dig and bore into the sub-soil ;

and make and set up suitable land-marks, level-marks and water-gauges,

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal-officer :

Power to
clear land.

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle ;

¹As to the application of s. 14 in the case of proposed drainage-works, see s. 58, *infra*, p. 186.

(Part III.—Of the Construction and Maintenance of Works. Secs. 15-16.)

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal :

Power to inspect and regulate water-supply.

Provided that, if such Canal-officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Notice of intended entry into houses.

In every case of entry under this section, the Canal-officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section ; and, in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Compensation for damage caused by entry.

15. In case of any accident happening or being apprehended to a canal, any Divisional Canal-officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Power to enter for repairs and to prevent accidents.

In every such case such Canal-officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal-officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section 43 of the Land Acquisition Act, 1870.¹

Compensation for damage to land.

x of 1870.

16. Any persons desiring to use the water of any canal may apply in writing to the Divisional or Sub-divisional Canal-officer of the division or sub-division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

Application by persons desiring to use canal-water.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal-officer, and how the payment is to be made.

Contents of application.

When the assent of the Superintending Canal-officer is given to such application, all the applicants shall, after the application has been duly

Liability of applicants for cost of works.

¹See now the Land Acquisition Act, 1894 (1 of 1894), as modified up to the 1st April, 1903.

(Part III.—Of the Construction and Maintenance of Works. Secs. 17-19.)

attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Recovery of
amount due.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal-officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector as if it were an arrear of land-revenue.

Government
to provide
means of
crossing
canals.

17. There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and, if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

Persons using
water-course
to construct
works for
passing water
across roads,
etc.

18. The Divisional Canal-officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works.

If they fail,
Canal-officer
may con-
struct,

Such order shall specify a reasonable period within which such construction or repairs shall be completed ;

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal-officer, he may, with the previous approval of the Superintending Canal-officer, himself construct or repair the same ;

and recover
cost.

and, if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal-officer, the amount shall, on the demand of the Divisional Canal-officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

Adjustment
of claims
between
persons
jointly
using water-
course.

19. If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-divisional Canal-officer, on

(Part III.—Of the Construction and Maintenance of Works. Secs. 20-21.)

receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Any sum directed by such order to be paid within a specified period may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue. Recovery of amount found due.

20. Whenever application is made to a Divisional Canal-officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Divisional Canal-officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course. Supply of water through intervening water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal-officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal-officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal-officer, stating— Application for construction of new water-course.

(1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for acquiring such right;

(Part III.—Of the Construction and Maintenance of Works. Secs. 22-24.)

(3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of
Canal-officer
thereupon.

22. If the Divisional Canal-officer considers—

- (1) that the construction of such water-course is expedient, and
- (2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation which he considers likely to become due under section 28 ;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

Application
for transfer
of existing
water-course.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself may apply in writing to the Divisional Canal-officer, stating—

- (1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course ;
- (2) that he desires the said Canal-officer, in his behalf and at his cost, to do all things necessary for procuring such transfer ;
- (3) that he is able to defray the cost of such transfer.

Procedure
thereupon.

If the Divisional Canal-officer considers—

- (a) that the said transfer is necessary for the better management of the irrigation from such water-course, and
- (b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal-officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section 28 in respect of such transfer ;

and upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district through which such water-course passes.

Objections to
construction
or transfer
applied for.

24. Within thirty days from the publication of a notice under section 22 or section 23, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition,

(Part III.—Of the Construction and Maintenance of Works. Secs. 25-28.)

stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal-officer of the place and time at which such inquiry will be held.

The Collector shall record in writing all orders passed by him under this section, and the grounds thereof.

25. If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal-officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

When applicant may be placed in occupation.

26. If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal-officer accordingly; and, if such officer sees fit, he may, in the case of an application under section 21, alter the boundaries of the land so marked out, and may give fresh notice under section 22; and the procedure hereinbefore provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

Procedure when objection is held valid.

27. If the Canal-officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Procedure when Canal-officer disagrees with Collector.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section 28, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

28. No such applicant shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Expenses to be paid by applicant before receiving occupation.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1870¹; but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Procedure in fixing compensation.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the

Recovery of compensation.

¹ See now the Land Acquisition Act, 1894 (I of 1894), as modified up to 1st April, 1903.

(Part III.—Of the Construction and Maintenance of Works. Sec. 29.)

tion and ex-
penses.

Conditions
binding on
applicant
placed in
occupation.

Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest :—

First.—All works necessary for the passage across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal-officer.

Second.—Land occupied for a water-course under the provisions of section 22 shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Divisional Canal-officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge,

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation ; and, if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

(Part III.—Of the Construction and Maintenance of Works. Sec. 30.
Part IV.—Of the Supply of Water. Secs. 31-32.)

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

30. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

Procedure applicable to occupation for extensions and alterations,

PART IV.

OF THE SUPPLY OF WATER.

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof.

In absence of written contract, water-supply to be subject to rules.

32. Such contracts and rules must be consistent with the following conditions :—

Conditions as to—

(a) The Divisional Canal-officer may not stop the supply of water to any water-course, or to any person, except in the following cases :—

power to stop water-supply ;

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government ;

(2) whenever and so long as any water-course is not maintained in such proper customary repairs as to prevent the wasteful escape of water therefrom ;

(3) within periods fixed from time to time by the Divisional Canal-officer :

(b) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal-officer considers necessary ; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government :

claims to compensation in case of failure or stoppage of supply ;

(Part V.—Of Water-rates. Sec. 33.)

claims on account of interruption from other causes ;

(c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss :

duration of supply ;

(d) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop ; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year :

sale or sub-letting of right to use canal-water ;

(e) Unless with the permission of the Superintending Canal-officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use :

Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant :

transfer, with land, of contracts for water.

But all contracts made between Government and the owner or occupier of any immoveable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place :

No right acquired by user

(f) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1871¹, Part IX of 1871. IV ; nor shall Government be bound to supply any person with water except in accordance with the terms of a contract in writing.

PART V.

OF WATER-RATES.

Liability when person using unauthorizedly cannot be identified.

33. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the person on whose land such water has flowed, if such land has derived benefit therefrom,

¹ See now the Indian Limitation Act, 1877 (15 of 1877), as modified up to the 31st December, 1900.

(Part V.—Of Water-rates. Secs. 34-38.)

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

34. If water supplied through a water-course be suffered to run to waste and if, after enquiry by the Divisional Canal-officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Liability
when water
runs to waste.

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

Charges
recoverable
in addition
to penalties.
Decision of
questions
under sections
33 and 34.

All questions under section 33 or section 34 shall be decided by the Divisional Canal-officer, subject to an appeal to the head Revenue-officer of the district, or such other appeal as may be provided under section 75.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the¹ rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly.

Charge on
occupier for
water how
determined.

A rate so charged shall be called the "occupier's rate".

"Occupier's
rate".

² [The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purposes of this section, and may also determine the several liabilities, in respect of the payment of the occupier's rate, of tenants and of persons to whom tenants may have sublet their lands, or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy.]

37. In addition to the occupier's rate, a rate to be called the "owner's rate" may be imposed, according to rules³ to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

"Owner's
rate".

38. The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And, for the purpose of this section only, land

Amount of
owner's rate.

¹ For rules, see note to s. 75 *infra*.

² This paragraph was added to s. 36 by the Northern India Canal and Drainage (Amendment) Act, 1899 (16 of 1899), s. 2, *infra*, p. 444.

³ For rules for assessing owner's rates, see those noted on p. 42 of list 4 of the List of Local Rules and Orders, 1904, Vol. I, Part I.

which is permanently settled or held free of revenue shall be considered as though it were temporarily settled and liable to payment of revenue.

Owner's rate when not chargeable.

39. No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment.

When occupier is to pay both owner's rate and occupier's rate.

40. If such land is occupied by the owner,

or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land has or have been increased by irrigation,

such owner or tenant shall pay the owner's rate as well as the occupier's rate.

Power to make rules for apportioning owner's rate.

41. In the case of a tenant with a right of occupancy, the Local Government shall have power to make rules for dividing the owner's rate between such tenant and his landlord, proportionately to the extent of the beneficial interest of each in the land.

When owner is to pay owner's rate.

42. If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land has or have been increased by irrigation ;

or if, when the amount of a rent was fixed, the land was irrigated from the canal,

the owner shall pay the owner's rate.

Effect of introduction of canal-irrigation on landlord's right to enhance.

43. If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, the introduction of canal irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of such land, as if a revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

Water-rate by whom payable when charged on land held by several owners.

44. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

Recovery of Charges.

Certified dues recoverable as land-revenue.

45. Any sum, lawfully due under this Part, and certified by the Divisional Canal-officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

(Part V.—Of Water-rates. Secs. 46-48. Part VI.—Of Canal-navigation. Sec. 49.)

46. The Divisional Canal-officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

Power to contract for collection of canal-dues.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section 45; and, if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

47. The Collector may require the lambardar or person under engagement to pay the land-revenue of any estate to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate.

Lambardars may be required to collect canal-dues.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate:

and, for the purpose of collecting such sums from the subordinate zamin-dars, raiyats¹ [tenants or sub-tenants], such lambardar or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The Local Government shall provide—

- (a) for remunerating persons collecting sums under this section; or
- (b) for indemnifying them against expenses properly incurred by them in such collection; or
- (c) for both such purposes.

48. Nothing in sections 45, 46 or 47 applies to fines.

Fines excluded from sections 45 to 47.

PART VI.

OF CANAL-NAVIGATION.

49. Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal-officer, or by any other person duly authorized in this behalf.

Detainer of vessels violating rules.

¹ These words were substituted for the words "or tenants" by the Northern India Canal and Drainage (Amendment) Act, 1899 (16 of 1899), s. 3, *infra*, p. 444.

(Part VI.—Of Canal-navigation. Secs. 50-53.)

Liability of owners of vessels causing damage.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal-officer, with the approval of the Superintending Canal-officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Recovery of fines for offences in navigating canals.

50. Any fine imposed under this Act upon the owner of any vessel or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure,¹ or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

Power to seize and detain vessel on failure to pay charges.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal-officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Procedure for recovery of such charges after seizure.

53. Within a reasonable time after any seizure under section 51 or section 52, the said Canal-officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And, if such claim be not so discharged, the said Canal-officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale :

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

¹ See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), as modified up to 1st April, 1903.

(Part VII.—Of Canal-navigation. Sec. 54. Part VII.—Of Drainage.
Secs. 55-56.)

54. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal-officer may take possession of the same.

Procedure in respect of vessels abandoned and goods unclaimed.

The officer so taking possession may publish a notice that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal-officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal-officer.

Disposal of proceeds of sale.

If the Divisional Canal-officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

PART VII.

OF DRAINAGE.

55. Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such Government may, by notification published in the official Gazette, prohibit,¹ within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Power to prohibit obstructions or order their removal.

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

56. The Divisional Canal-officer, or other person authorized by the Local Government in that behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

Power to remove obstructions after prohibition.

¹ For notifications prohibiting and removing obstructions in certain streams, see those noted on p. 43 of list 4 of the United Provinces List of Local Rules and Orders, Ed. 1904, Vol. I, Part I.

If, within the time so fixed, such person does not comply with the order, the said Canal-officer may himself remove or modify the obstruction; and, if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

Preparation
of schemes
for works of
improvement.

57. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of
persons
employed on
such schemes.

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal-officers by section 14.

Rates on lands
benefited by
works.

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits :

- (1) six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate :
- (2) in the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person, as the case may be.

(Part VII.—Of Drainage. Secs. 60-62. Part VIII.—Of obtaining Labour for Canals and Drainage-works. Secs. 63-65.)

60. Any such drainage rate may be collected and recovered in manner provided by sections 45, 46 and 47 for the collection and recovery of water-rates. Recovery of rate.

61. Whenever, in pursuance of a notification made under section 55, any obstruction is removed or modified, Disposal of claims to compensation

or whenever any drainage-work is carried out under section 57,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work may be made before the Collector, and he shall deal with the same in the manner provided in section 10.

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. Limitation of such claims.

PART VIII.

OF OBTAINING LABOUR FOR CANALS AND DRAINAGE-WORKS.

63. For the purposes referred to in this Part, the word "labourer" includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government. Definition of "labourer".

64. In any District in which a canal or drainage-work is constructed, maintained or projected by Government, the Local Government may, if it thinks fit, direct the Collector— Power to prescribe number of labourers to be supplied by persons benefited by canal.

(a) to ascertain the proprietors, sub-proprietors or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work, and

(b) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector, may from time to time, add to or alter such list or any part thereof.

65. Whenever it appears to a Divisional Canal-officer duly authorized by the Local Government that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury, Procedure for obtaining labour for works urgently required.

(Part VIII.—Of obtaining Labour for Canals and Drainage-works. Sec. 66.

Part IX.—Of Jurisdiction. Sec. 67.)

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state—

- (a) the nature and locality of the work to be done,
- (b) the number of labourers to be supplied by the person upon whom the requisition is made, and
- (c) the approximate time for which and the day on which the labourers will be required ;

and a copy thereof shall be immediately sent to the Superintending Canal-officer for the information of the Local Government.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers: Provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, with the previous sanction of the Governor General in Council, direct that the provisions of this Part shall apply, either permanently or temporarily as the case may be, to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

66. When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

PART IX.

OF JURISDICTION.

67. Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

Liability of
labourers
under re-
quisition.

Jurisdiction
under this
Act of Civil
Courts.

(Part IX.—Of Jurisdiction. Secs. 68-69. Part X.—Of Offences and Penalties. Sec. 70.)

68. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divisional Canal-officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter. And, after such enquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon enquire into and pass his order on the said matter.

Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court.

69. Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses as are conferred on Civil Courts by the ¹ Code of Civil Procedure; and every such inquiry shall be deemed a judicial proceeding.

Power to summon and examine witnesses.

PART X.

OF OFFENCES AND PENALTIES.

70. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say,—

Offences under Act.

- (1) damages, alters, enlarges or obstructs any canal or drainage-work,
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work,
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work,
- (4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner,
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used,

¹ See now the Code of Civil Procedure (Act 14 of 1882), as modified up to the 1st December, 1899.

(Part X.—Of Offences and Penalties. Secs. 71-73.)

- (6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal,
- (7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon,
- (8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him,
- (9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour,
- (10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant,
- (11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom,
- (12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

Penalty.

shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

Saving of prosecution under other laws.

71. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act :

Provided that no person shall be punished twice for the same offence.

Compensation to person injured.

72. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Power to arrest without warrant.

73. Any person in charge of or employed upon any canal or drainage-work may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences :—

- (1) wilfully damages or obstructs any canal or drainage-work ;
- (2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work.

(Part X.—Of Offences and Penalties. Sec. 74. Part XI.—Of Subsidiary Rules. Sec. 75.)

74. In this Part the word “canal” shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government, upon such lands.

Definition
of “canal”.

PART XI.

OF SUBSIDIARY RULES.

75. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, make rules¹ to regulate the following matters :—

Power to
make, alter
and cancel
rules.

- (1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;
- (2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable ;
- (3) the persons by whom, [and²] the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done ;
- (4) the amount of any charge made under this Act ;
- (5) and, generally, to carry out the provisions of this Act.

The Local Government may, from time to time, with the like sanction, alter or cancel any rules so made.

Such rules, alterations and cancellments shall be published in the local official Gazette, and shall thereupon have the force of law.

Publication
of rules.

SCHEDULE.

ACTS REPEALED.

(Rep. Act XII of 1873.)

¹ For rules, see those noted on pp. 33 to 41 and 43 to 45 of list 4 of the United Provinces Local Rules and Orders, Ed. 1904, Vol. 1, Part I.

² The word “and” was inserted by the Repealing and Amending Act. 1891 (12 of 1891), General Acts, Vol. VI.

(1.—*Preliminary.* Sec. 1. II.—*Appointment of Village Police.* Secs. 3-4.)

ACT No. XVI OF 1873.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[21st November, 1873.]

An Act to consolidate and amend the law relating to Village and Road Police in the ² North-Western Provinces.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the village and road police in the ² North-Western Provinces of the Presidency of Fort William in Bengal ; It is hereby enacted as follows :—

I.—*Preliminary.*

Short title.

1. This Act may be called the North-Western Provinces Village and Road Police Act, 1873 :

Local extent.

3 * * * * This Act extends only to the ⁴ territories for the time being under the government of the Lieutenant-Governor of the North-Western Provinces.

[*Commencement.*] *Rep. by the Repealing Act, 1876 (XII of 1876).*

2. [*Repeal of enactments.*] *Rep. by the Repealing Act, 1874 (XVI of 1874).*

II.—*Appointment of Village Police.*

Right of nomination of village-policemen.

3. The nomination to the post of village-policeman shall be made by the zamindar of the village, or, where there are more zamindars than one, by the lambardar as their representative ; and, where there are more lambardars than one, the opinion of the majority (unless there is some special provision to the contrary in the village-administration-paper) shall prevail.

Obligation to nominate.

4. Every person authorized to nominate to the office of village-policeman shall, within fifteen days after the occurrence of a vacancy in such office, nomi-

¹ For Statement of Objects and Reasons, see Gazette of India, 1873, Pt. V, p. 114 ; for Proceedings in Council, see *ibid*, Supplement, pp. 375, 408 ; *ibid*, Extra Supplement, dated 26th April, 1873, p. 8 ; and *ibid*, Supplement, 1873, pp. 1299 and 1319.

Act 16 of 1873 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, to be in force in the Tarai Parganas—see Appendix, p. 998.

² Now “the Province of Agra”, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

³ The words “So far as regards the repeal of Act No. III of 1869, this Act extends to the whole of British India ; the rest of” were repealed by the Repealing and Amending Act (12 of 1891), General Acts, Vol. VI.

⁴ Now the Province of Agra, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and Act 7 of 1902, s. 2. The Lieutenant-Governor of the North-Western Provinces is now the Lieutenant-Governor of the United Provinces of Agra and Oudh. see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

(II.—*Appointment of Village Police. Secs. 5-6. III.—Appointment of Road Police. Sec. 7. IV.—Duties of Village and Road Police. Sec. 8.*)

nate a proper person to the vacant post, and communicate the nomination to the Magistrate of the district.

5. The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected at discretion by such Magistrate or by some officer authorized by him in that behalf. Discretion to appoint or reject nominee.

6. (a) In default of such nomination within the said fifteen days, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy. Power to Magistrate to appoint.

(b) If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorized to nominate shall, within fifteen days from the date of such rejection, nominate another person to the vacant post; and in default of such nomination, or if such nomination has been made but the nominee is again rejected, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy. Procedure in case of rejection of nominee.

III.—Appointment of Road Police.

7. Subject to the rules to be framed under section 14, and for the time being in force, the Magistrate of the district may, from time to time, appoint persons to be the road-police of his district. Appointment of road-police.

IV.—Duties of Village and Road Police.

8. Every village-policeman and every road-policeman shall perform the following duties:— Duties of village and road-policemen.

(a) he shall give immediate information to the officer in charge of the police-station appointed for his village or beat—

(1) of every unnatural, suspicious or sudden death occurring in the village of which he is chaukidar, or within his beat;

(2) of each of the following offences occurring in such village or on such beat (that is to say), murder, culpable homicide, rape, dacoity, theft, robbery, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot, harbouring a proclaimed offender, exposure of a child, concealment of birth, administering stupefying drugs, kidnapping, lurking house-trespass; and

(3) of all attempts and preparations to commit, and abetments of, any of the said offences:

(b) he shall keep the police informed of all disputes which are likely to lead to any riot or serious affray:

(IV.—Duties of Village and Road Police. Sec. 9. V.—Liabilities of Village and Road Police. Secs. 10-12.)

- (c) he shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in paragraph (a), clause (2), of this section :
- (d) he shall observe, and from time to time report to the officer in charge of the police-station within the jurisdiction of which his village or beat may be situate, the movements of all bad characters in or on such village or beat :
- (e) he shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood :
- (f) he shall supply to the best of his ability any local information which a Magistrate or any officer of police may require, and shall promptly execute all orders issued to him by competent authority.

Procedure on arrest by village or road-policeman.

9. Whenever a village-policeman or road-policeman arrests any person, he shall take him, as soon as possible, to the police-station within the jurisdiction of which his village or beat is situate.

V.—Liabilities of Village and Road Police.

Dismissal of village or road-policeman. Acts punishable.

10. The Magistrate of the district may dismiss any village-policeman or road-policeman for any misconduct or neglect of duty.

11. Every village-policeman and every road-policeman guilty of any wilful misconduct in his office, or of neglect of duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code,¹

or withdrawing from the duties of his office without permission, and without having given at least two months' notice of his intention to withdraw from such duties to the persons authorized to nominate or appoint under sections 3 and 7 (as the case may be),

or offering any unnecessary personal violence to any person in his custody,

or violating any of the rules framed under section 14, and for the time being in force,

Penalty.

shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment for a period not exceeding three months or to both.

Fines to be credited to such fund as Government appoints.

12. All fines levied under this Act on village-policemen or road-policemen shall be credited to such fund as the Local Government from time to time appoints

¹ For Act 45 of 1860, see the revised edition, as modified up to 1st April, 1903.

VI.—Miscellaneous.

13. All orders of, and appointments made by, the Magistrate of the district under section 5, 6, 7 or 10 shall be subject to control, revision and alteration by the Commissioner to whom he is subordinate.

Orders of Magistrate of district subject to control of Commissioner.
Power to make subsidiary rules.

14. The Local Government may from time to time frame rules¹—

- (a) for the discipline of the village and road-police ;
- (b) for regulating their numbers, location and duties ; and
- (c) for carrying out generally the purposes of this Act.

ACT No. VII OF 1876. ²

[APPLIES TO THE UNITED PROVINCES].

[21st March, 1876.]

An Act to extend the Criminal Tribes Act, 1871,³ to the Lower Provinces of Bengal and to amend the same Act.

WHEREAS it is expedient to extend Act No. XXVII of 1871³ (*for the Registration of Criminal Tribes and Eunuchs*) to the Lower Provinces of Bengal and to amend the same Act in manner hereinafter appearing ; It is hereby enacted as follows:—

Preamble.

1. Section 1 of the said Act shall be read as if, after the words “Lieutenant-Governors of”, the following word was inserted (namely) : “Bengal”.

Extension of Act XXVII of 1871, section 1, to Lower Provinces.

2. Section 18 of the said Act shall be read as if in the second clause, after the words “persons reside”, the following words were inserted (namely) : “or the agents of such landowners or occupiers”.

Amendment of section 18, Act XXVII of 1871.

Section 21 of the said Act shall be read as if in the first clause, after the words “persons reside”, the following words were inserted (namely): “or of the agent of any such owner or occupier”,

Amendment of section 21, Act XXVII of 1871.

and as if in the fourth clause, after the words “occupier of land”, the following words were inserted (namely): “or of the agent of such owner or occupier”.

And section 22 of the same Act shall be read as if, after the words “occupier of land”, the following words were inserted (namely) : “or the agent of such owner or occupier”.

Amendment of section 22, Act XXVII of 1871.

¹ For rules, see those noted on p. 45 of list 4 of the United Provinces List of Local Rules and Orders, 1904, Vol. I, Pt. I.

² For Statement of Objects and Reasons, see Gazette of India, 1876, Pt. V, p. 226; and for Proceedings in Council, see *ibid*, Supplement, pp. 191, 222, 322 and 342.

Short title, the Criminal Tribes (Amendment) Act, 1876, see the Repealing and Amending Act, 1903 (1 of 1903), Bengal Code, Vol. I, p. 20.

³ *Supra*, p. 154.

THE OUDH LAWS ACT, 1876.

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34. Duties of village and road-policemen.
35. Procedure on arrest by village or road-policemen.
36. Dismissal of village or road-policemen.
37. Acts punishable.
Penalty.
38. Fines to be credited to such fund as Government appoints.

CHAPTER V.

SUBSIDIARY RULES.

39. Power to make rules.
40. Publication of rules.
41. [*Repealed.*]
42. Penalty for breach of rules.

CHAPTER VI.

MISCELLANEOUS.

Honorary Civil Jurisdiction.

43. [*Repealed.*]

(Part I.—Preliminary. Secs. 1-2. Part II.—General Laws to be administered in Oudh. Sec. 3.)

Honorary Police-officers.

SECTIONS.

44. Honorary Police-officers.

45. [Repealed.]

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

ACT No. XVIII of 1876.¹

[APPLIES TO THE PROVINCE OF OUDH.]

[10th October, 1876.]

An Act to declare and amend the laws to be administered in Oudh.

Preamble. WHEREAS it is expedient to declare and amend the laws to be administered in Oudh ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

- | | |
|-----------------------|--|
| Short title. | 1. This Act may be called the Oudh Laws Act, 1876. |
| Local extent. | It extends only to the ² territories for the time being under the administration of the Chief Commissioner of Oudh ; |
| Commencement. | and it shall come into force on the passing thereof. |
| Repeal of enactments. | 2. The Regulations, Acts, Rules and Orders mentioned or referred to in the first schedule hereto annexed shall be repealed to the extent mentioned in the third column of the said schedule. |

• PART II.

GENERAL LAWS TO BE ADMINISTERED IN OUDH.

- | | |
|---|---|
| Statutory law to be administered in Oudh. | 3. The law to be administered by the Courts of Oudh shall be as follows :— |
| | (a) the laws for the time being in force regulating the assessment and collection of land-revenue : |

¹ For Statement of Objects and Reasons, see Gazette of India, 1873, Pt. V, p. 493 ; for Report of the Select Committee, see *ibid*, 1876, Pt. V, p. 710 ; and for Proceedings in Council, see *ibid*, 1871, Supplement, p. 1007 ; *ibid*, 1873, Extra Supplement, p. 17 ; *ibid*, 1876, Supplement, pp. 821, 1085 and 1097.

² Now the Province of Oudh, the Chief Commissioner is now Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

(Part II.—General Laws to be administered in Oudh. Sec. 4. Part III.

—Chapter I.—Dower among Muhammadans. Sec. 5.)

(b) in questions regarding succession, special property of females, betrothal, marriage, divorce, dower, adoption, guardianship, minority, bastardy, family-relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be—

(1) any custom applicable to the parties concerned which is not contrary to justice, equity or good conscience, and has not been, by this or any other enactment, altered or abolished, and has not been declared to be void by any competent authority;

(2) the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, except in so far as such law has been, by this or any other enactment, altered or abolished, or has been modified by any such custom as is above referred to:

(c) the rules contained in this Act:

(d) the rules published in the local official Gazette as provided by section 40, or made under any other Act for the time being in force in Oudh:

(e) the Regulations and Acts specified in the second schedule hereto annexed, subject to the provisions of section 4, and to the modifications mentioned in the third column of the same schedule:

(f) subject to the modifications hereinafter mentioned, all enactments for the time being in force and expressly, or by necessary implication, applying to British India or Oudh, or some part of Oudh:

(g) in cases not provided for by the former part of this section, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience.

4. All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority.

Validity of
local customs
and mercan-
tile usages.

PART III.

CHAPTER I.

DOWER AMONG MUHAMMADANS.

5. Where the amount of dower stipulated for in any contract of dower by a Muhammadan is excessive with reference to the means of the husband, the Muhammadan dower-con-

(Part III.—Chapter II.—Pre-emption. Secs. 6-9.)

tracts how
to be en-
forced.

entire sum provided in the contract shall not be awarded in any suit by decree in favour of the plaintiff, or by allowing it by way of set-off, lien or otherwise to the defendant ; but the amount of the dower to be allowed by the Court shall be reasonable with reference to the means of the husband and the status of the wife. *

Rule appli-
cable after
husband's
death.

This rule shall be applicable whether the suit to enforce the contract be brought in the husband's lifetime or after his death.

CHAPTER II.

PRE-EMPTION.

Right of
pre-emption.

6. The right of pre-emption is a right of the persons hereinafter mentioned or referred to, to acquire, in the cases hereinafter specified, immoveable property in preference to all other persons.

Presumption
as to its
existence.

7. Unless the existence of any custom or contract to the contrary is proved, such right shall, whether recorded in the settlement-record or not, be presumed —

(a) to exist in all village-communities, however constituted, and whether proprietary or under-proprietary, and in the cases referred to in section 40 of the Oudh Land-revenue Act¹, and

(b) to extend to the village-site, to the houses built upon it, to all lands and shares of lands within the village-boundary, and to all transferable rights affecting such lands.

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Its existence
in towns to be
proved.

8. The right of pre-emption shall not be presumed to exist in any town or city, or any sub-division thereof, but may be shown to exist therein and to be exercisable therein by such persons and under such circumstances as the local custom prescribes.

Devolution
of right when
property to
be sold or
foreclosed is
a proprietary
or under-
proprietary
tenure.

9. If the property to be sold or foreclosed is a proprietary or under-proprietary tenure, or a share of such a tenure, the right to buy or redeem such property belongs in the absence of a custom to the contrary,—

1st, to co-sharers of the sub-division (if any) of the tenure in which the property is comprised, in order of their relationship to the vendor or mortgagor ;

2ndly, to co-sharers of the whole mahal in the same order ;

3rdly, to any member of the village-community ; and

4thly, if the property be an under-proprietary tenure, to the proprietor.

¹ See now the United Provinces Land-Revenue Act, 1901 (U. P. Act 3 of 1901), *infra*, p. 825. Act 17 of 1876 is repealed by that Act.

(Part III.—Chapter II.—Pre-emption. Secs. 10-13.)

Where two or more persons are equally entitled to such right, the person to exercise the same shall be determined by lot.

10. When any person proposes to sell any property, or when he forecloses a mortgage upon any property, in respect of which any persons have a right of pre-emption, he shall give notice to the persons concerned of the price at which he is willing to sell such property, or of the amount due in respect of such mortgage, as the case may be. Notice to pre-emptors.

Such notice shall be given through the Court within the local limits of whose jurisdiction the property or any part thereof is situate, and shall be deemed sufficiently given if it be stuck up on the chaupal or other public place of the village or city in which the property is situate.

11. Any person having a right of pre-emption in respect of any property proposed to be sold shall lose such right, unless within three months from the date of such notice he or his agent pays or tenders the price aforesaid to the person so proposing to sell. Loss of right of pre-emption.

12. When the right of pre-emption arises in respect of the foreclosure of a mortgage, any person entitled to such right may, at any time within three months after the giving of the notice required by section 10, pay or tender to the mortgagee or his successor in title the amount specified in such notice, and shall thereupon acquire a right to purchase the property. Right of pre-emptor on foreclosure.

On completion of the purchase the person exercising the right of pre-emption shall be bound to pay to the mortgagee or his successor in title the amount specified in such notice, together with interest on the principal sum secured by the mortgage, at the rate specified by the instrument of mortgage, for any time which has elapsed since the date of the notice, and any additional costs which may have been properly incurred by the mortgagee or his successor in title.

13. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely) :— Suit to enforce right of pre-emption.

- (a) that no due notice was given as required by section 10 ;
- (b) that tender was made under section 11 or section 12 and refused ;
- (c) in the case of a sale, that the price stated in the notice was not fixed in good faith ;
- (d) in the case of a mortgage, that the amount claimed by the mortgagee was not really due on the footing of the mortgage and was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged.

(Part III.—Chapter II.—Pre-emption. Secs. 14-15. Chapter III.—Procedure of the Courts. Sec. 16.)

If, in the case of a sale, the Courts find that the price was not fixed in good faith, the Court shall fix such price as appears to it to be the fair market-value of the property sold.

If, in the case of a mortgage, the Court find that the amount claimed by the mortgagee was not really due on the footing of the mortgage, and that it was not claimed in good faith and that it exceeds the fair market-value of the property mortgaged, the amount to be paid to the mortgagee shall not exceed what the Court finds to be such market-value.

Decree to fix
time for pay-
ment.

14. If the Court find for the plaintiff, the decree shall specify a day on or before which the purchase-money or the amount to be paid to the mortgagee shall be paid.

Effect of non-
payment of
purchase-
money.

15. If such purchase-money or amount is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall, so far only as relates to such sale or mortgage, lose his right of pre-emption over the property to which the decree relates.

• —————

CHAPTER III.

PROCEDURE OF THE COURTS.

Rule of
limitation.

16. The Judicial Commissioner's Circular No. 104 of July, 1860, shall be held to have been a notification within the meaning of section 24 of Act XIV of 1859, and such Act¹ shall be deemed to have been in force in Oudh from the fourth day of July, 1862; and all orders and decrees passed under the rules contained in the said Circular, or under the said Act, shall be deemed to have been passed under a law in force for the time being.

Nothing in this section affects the provisions of sections 102, 104, 105, 106, 107 and 108 of the Oudh Rent Act (XIX of 1868)² with regard to the limitation of suits under that Act.

17. [Act XXXII of 1871, s. 28, to cease in any district from date of notification that it is no longer under settlement.] Rep. Act XII of 1891.

18. [Recognized agents.] Rep. Act XII of 1891.

¹ The Limitation Act, 1859, section 24, deals with the operation of the Act which under the provisions of the section was not to take effect in any non-regulation Province or place till extended thereto by public notification. Act 14 of 1859 is now repealed by the Limitation Act of 1871 (9 of 1871), and the Specific Relief Act, 1877 (1 of 1877). For the latter, see General Acts, Vol. III.

² Act 19 of 1868 was repealed by the Oudh Rent Act, 1886 (22 of 1886), s. 2, *infra*, p. 324.

(Part III.—Chapter III.—Procedure of the Courts. Secs. 19-20.)

19. ¹ Section 172 of Act No. VIII of 1859 is hereby repealed, so far as the province of Oudh is concerned, and the following section is substituted therefor :—

Rules for
taking
evidence.

“On the day appointed for the hearing of the suit, or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court in the presence and hearing and under the personal direction and superintendence of the Judge.

“A note of the essential points of the evidence of each witness is to be taken at the time, and in the course of oral examination, by the officer who tries the case, in his own language, or in English if he is sufficiently acquainted with that language, and such note shall be filed, and shall form part of the record of the case.

“If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down to be interpreted to him in the language in which it was given.

“It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there appear any special reason for so doing, or any party or his pleader requires it.

“If any question put to a witness be objected to by either of the parties or their pleaders, and the Court allow the same to be put, the question and the answer shall be taken down, and the objection and the name of the party making it shall be noticed in taking down the depositions, together with the decision of the Court upon the objection.

“The Court shall record such remarks as it may think material respecting the demeanour of the witness while under examination.

“If the Judge be prevented from making a note as above required, he shall record the reason of his inability to do so, and shall cause such note to be made in writing from his dictation in open Court, and shall sign the same, and such note shall form part of the record.”

VIII of 1859.

20. So much of section 205 of the Code of Civil Procedure ² as renders land liable to sale in execution of a decree shall be subject to the following restriction :—

Execution-
sale of
ancestral and
acquired
property in
land.

No ancestral property in land shall be sold in satisfaction of a decree with-

¹ See now ss. 181 to 190 both inclusive of the Code of Civil Procedure (Act 14 of 1882), General Acts, Vol. IV. The reference to s. 172 of Act 8 of 1859 should be read as referring to these sections, see s. 3 of Act 14 of 1882 in the revised edition as modified up to 1st December, 1899.

² See now s. 266 of Act 14 of 1882. The reference to section 205 of the Act of 1859 should be read as if referring to s. 266 of the Act of 1882, see s. 3 of that Act.

(Part III.—Chapter III.—Procedure of the Courts. Secs. 22-27.)

out the permission of the ¹Chief Commissioner; no self-acquired property in land shall be so sold without the permission of the Commissioner.

Explanation.—In the section the words “ancestral property” include the immoveable property of persons admitted to engagement for the land-revenue at the summary settlement of 1858-59.

21. [*Appointment of manager of land attached.*] *Rep. Act XIII of 1879.*

Service of
process within
jurisdiction of
Lucknow
Civil Court.

22. Notwithstanding anything contained in the said Code, any Civil Court sitting within the local limits of the jurisdiction of the Lucknow Civil Court, but exercising jurisdiction beyond such limits, may cause summonses, warrants, notices and other processes to be served within the local limits of the jurisdiction of the Lucknow Civil Court without causing the same processes to be served through such Court.

23. [*Section substituted for Act XIX of 1868, s. 109.*] *Rep. Act XXII of 1886.*

24. [*Section substituted for Act XIX of 1868, s. 118.*] *Rep. Act XXII of 1886*

25. [*Right of occupancy in judgment-debtor's sir-land.*] *Rep. Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act IV of 1901).*

Revenue
agents au-
thorised to
appear, &c.,
in rent-suits.

26. Notwithstanding anything contained in Act No. XX of 1865 ², all persons duly admitted and enrolled as Revenue-agents under that Act in the territories for the time being under the administration of the ¹Chief Commissioner of Oudh may appear, plead and act in suits under the Oudh Rent Act³, in the Courts of officers exercising the powers of Assistant Collectors, Deputy Collectors, Collectors and Commissioners under the same Act.

Power to
make rules
for custody
and sale of
attached pro-
perty.

27. With the sanction of the ¹Chief Commissioner, the Judicial Commissioner may from time to time make rules consistent with this Act and with the Code of Civil Procedure ⁴—

- (a) for the custody and sale of moveable property attached in execution of decrees⁵;
- (b) for the levy of a fee or commission on the sale of attached property and the disposal of the funds accruing from such fees;
- (c) as to the appointment and remuneration of persons by whom property is to be attached, kept in custody and sold;

¹ Now Lieutenant-Governor, *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

² *See* now the Legal Practitioners Act, 1879 (18 of 1879), General Acts, Vol. III.

³ *See* now the Oudh Rent Act, 1886 (22 of 1886), by which the Act in force at the time this Act was passed was repealed.

⁴ *See* Act 14 of 1882 which is the Code now in force, General Acts, Vol. IV, or the revised Edition as modified up to 1st December, 1892.

⁵ For rules, *see* N.-W. P. and Oudh Gazette, 1884, Pt. II, p. 109.

(Part III.—Chapter IV.—Village and Road-Police. Secs. 29-34.)

(d) as to the appointment and remuneration of persons by whom local investigations under section 180, and investigations and adjustments of accounts under section 181, of the Code of Civil Procedure¹ are to be made.

28. [Power to revise decrees and orders of subordinate Courts.] *Rep. Act XIII of 1879.*

CHAPTER IV.

VILLAGE AND ROAD-POLICE.

29. The nomination to the post of village-policeman shall be made by the zamindar of the village, or, where there are more zamindars than one, by the lambardar as their representative ; and, where there are more lambardars than one, the opinion of the majority (unless there is some special provision to the contrary in the village-administration-paper) shall prevail.

Right to nominate village-policeman.

30. Every person authorised to nominate to the office of village-policeman shall, within fifteen days after the occurrence of a vacancy in such office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the district.

Obligation to nominate.

31. The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected at discretion by such Magistrate, or by some officer authorised by him in that behalf.

Discretion to appoint or reject nominee.

32. In default of such nomination within the said fifteen days, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Power to Magistrate to appoint.

If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorised to nominate shall, within fifteen days from the date of such rejection, nominate another person to the vacant post ; and in default of such nomination, or if such nomination has been made but the nominee is again rejected, the Magistrate of the district shall appoint such person as he thinks fit to the vacancy.

Procedure in case of rejection of nominee.

33. Subject to the rules to be framed under section 39 and for the time being in force, the Magistrate of the district may from time to time appoint persons to be the road-police of his district.

Appointment of road-police.

34. Every village-policeman and every road-policeman shall perform the following duties :—

Duties of village and road-policemen.

(a) he shall give immediate information to the officer in charge of the police-station appointed for his village or beat—

(1) of every unnatural, suspicious or sudden death occurring in the village of which he is chaukidar, or within his beat ;

¹ See now sections 392 and 394, respectively, of the present Code of Civil Procedure (Act 14 of 1882). The reference to ss. 180 and 181 should be read as referring to these sections, see s. 3 of Act 14 of 1882, as modified up to 1st December, 1899.

(Part III.—Chapter IV.—Village and Road-Police. Secs. 35-37.)

(2) of each of the following offences occurring in such village or on such beat (that is to say), murder, culpable homicide, rape, dacoity, theft, robbery, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot, harbouring a proclaimed offender, exposure of a child, concealment of birth, administering stupefying drugs, kidnapping, lurking house-trespass; and

(3) of all attempts and preparations to commit, and abetments of, any of the said offences:

- (b) he shall keep the police informed of all disputes which are likely to lead to any riot or serious affray:
- (c) he shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in paragraph (a), clause (2), of this section:
- (d) he shall observe and from time to time report to the officer in charge of the police-station within the jurisdiction of which his village or beat may be situate, the movements of all bad characters in or on such village or beat:
- (e) he shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood:
- (f) he shall supply to the best of his ability any local information which a Magistrate or any officer of police may require, and shall promptly execute all orders issued to him by competent authority.

Procedure on
arrest by
village or
road-policeman.
Dismissal of
village or
road-policemen.

35. Whenever a village-policeman or road-policeman arrests any person, he shall take him as soon as possible to the police-station within the jurisdiction of which his village or beat is situate.

36. The Magistrate of the district may dismiss any village-policeman or road-policeman for any misconduct or neglect of duty.

Where any village-policeman is guilty of neglect of duty or other misconduct, the person authorised to nominate to his office may report him for dismissal to the Magistrate of the district; and such Magistrate shall dismiss him accordingly, unless the Magistrate has reason to think that such dismissal would be improper.

Acts punishable.

37. Every village-policeman and road-policeman guilty of any wilful misconduct in his office, or of neglect of duty, such misconduct or neglect not being an offence within the meaning of the Indian Penal Code,¹

or withdrawing from the duties of his office without permission and without having given at least two months' notice of his intention to withdraw

XLV of 1860.

¹ See the revised edition, as modified up to 1st April, 1903.

(Part III.—Chapter IV.—*Village and Road-Police. Sec. 38. Chapter V.—
Subsidiary Rules. Sec. 39.*)

from such duties to the persons authorised to nominate or appoint under sections 29, 32 and 33 (as the case may be),

or offering any unnecessary personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment for a period not exceeding three months, or to both. Penalty.

38. All fines levied under this Act on village-policemen or road-policemen shall be credited to such fund as the Local Government from time to time appoints. Fines to be credited to such fund as Government appoints.

CHAPTER V.

SUBSIDIARY RULES.

39. The ¹Chief Commissioner may, from time to time, * * * *² make rules consistent with this Act as to— Power to make rules.

- (a) the discipline and remuneration of the village and road-police and the regulation of their number, location and duties;
- (b) the disposal of unclaimed property under Act No. V of 1861³ (*for the regulation of Police*), sections 25, 26 and 27;
- (c) public health and conservancy at fairs and other large public assemblies, and the maintenance of a proper watch and ward at such fairs and assemblies;
- (d) imposing, with the previous sanction of the Governor General in Council, taxes for those purposes only;
- (e) the manner in which records, civil, criminal and revenue, shall be kept; the appointment and removal of the persons entrusted with the custody of records, and all other matters connected with such custody * * * *⁴;

¹ Now Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

² The words "with the previous sanction of the Governor General in Council" were repealed by the United Provinces Assimilation of Powers Act (14 of 1878), s. 5, *infra*, p. 219.

³ *See* the revised edition, as modified up to 7th March, 1903.

⁴ For rules for the realization of the Chankidari cess and payment of village watchmen, *see* N.-W. P. and Oudh Gazette, 1881, Pt. I, p. 174.

⁵ The words "and the destruction from time to time of such records as it may be deemed unnecessary to keep" were repealed by the Destruction of Records Act, 1879 (3 of 1879), *General Acts*, Vol. III.

(Part III.—Chapter V.—Subsidiary Rules. Secs. 40-42. Chapter VI.—Miscellaneous. Secs. 43-45.)

(f) the appointment, duties, punishment and dismissal of all ministerial officers other than those employed in the Civil Courts and those in respect of whom provision is made in the¹ [Oudh Land-revenue Act, 1876 ;]

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(g) * * * *

Publication
of rules.

40. All rules made by the³ Chief Commissioner under section 39, and all rules made by the Judicial Commissioner under section 27, shall be published in the local official Gazette, and shall thereupon have the force of law.⁴

41. [Continuance of prior rules as to matters for which rules may be made under the Act.] Rep. Act XII of 1891.

Penalty for
breach of
rules.

42. Whoever breaks any rule made or continued under this Act, not being a rule made by the Judicial Commissioner, shall, on conviction before a Magistrate, be punishable with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to six months, or with both.

CHAPTER VI.

MISCELLANEOUS.

Honorary Civil Jurisdiction.

43. [Power to invest taluqdars with civil jurisdiction.] Rep. Act XIII of 1879.

Honorary Police-officers.

Honorary
police-officers.

44. The³ Chief Commissioner may, from time to time, confer on any person whom he thinks fit any power which may be exercised by a police-officer under any Act for the time being in force, and withdraw any power so conferred.

Creation and Alteration of Districts and Sub-divisions.

45. [Power to create new districts. Power to form sub-divisions of districts.] Rep. Act XX of 1890, s. 35.

¹ These words and figures at the end of clause (f) of s. 39 were substituted for the words "Oudh Revenue Act" by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI. See now, however, the United Provinces Land-revenue Act, 1901 (U. P. Act 3 of 1901), *infra*, p. , by which Act 17 of 1876 has since been repealed.

² Clause (g) was repealed by the Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act 4 of 1901), *infra*, p. 685. It was as follows : "(g) the extent of land in respect of which a proprietor or under-proprietor is to be held, under section 25, to be a tenant with a right of occupancy.

³ Now Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

⁴ See s. 23 of the General Clauses Act, 1897 (10 of 1897), General Acts, Vol. VI, as to the provisions applicable to rules published as required by s. 40.

(The First Schedule. The Second Schedule.)

THE FIRST SCHEDULE.

(See section 2.)

24 & 25 Vict.,
cap. 67.

| Number and year. | Title. | Extent of repeal. |
|------------------|---|---------------------------------|
| | All Bengal Regulations now in force in Oudh, except those specified in the second schedule ; and, except when expressly provided otherwise in this Act, all rules, laws and regulations made for or extended to the Province of Oudh, or any part thereof, which have acquired the force of law under the Indian Councils Act. ¹ | The whole.

The whole. |
| | Government Notification No. 4325 of 6th August, 1861. | The whole. |
| XXI of 1857. | Gambling | Sections 10 to 15. ² |
| XIX of 1863. | Partition | The whole. |
| XXXII of 1871 | The Oudh Civil Courts Act. | Section 31. |

THE SECOND SCHEDULE.

(See section 3.)

PART I.—BENGAL REGULATIONS.

| Number and year. | Subject. | Modifications. |
|------------------|----------------------------------|---|
| XXXXIII of 1803 | Embezzlement by Native Officers. | In section 1 and in section 2, clause <i>First</i> , before "sezawals," insert "tahsildars."
In section 2, after the first clause insert " <i>Second</i> .—The responsibility of the sureties of tahsildars extends to the several cases provided for in this Regulation."
In section 3, for "Dewanny Adawlut of the Zillah, the Judge of which Court shall detain him," read "District where he shall be detained"; for "real or personal" read "moveable or |

¹ Collection of Statutes relating to India, Ed. 1900, Vol. I.² Only sections 10 to 15 of the Act were extended to Oudh by an executive order, *see* para. 19 of the Report of the Select Committee, dated 22nd July, 1876, *Gazette of India*, 1876, Part V, p. 710, but the rest of the Act was and is still in force in certain parts of Bengal.³ *Supra*, p. 21.

(The Second Schedule.)

THE SECOND SCHEDULE—*continued*.PART I.—BENGAL REGULATIONS—*continued*.

| Number and year. | Subject. | Modifications. |
|----------------------------------|--|--|
| XXXIII of 1803—
<i>contd.</i> | | immoveable;" * * * ¹ , * * * ² and <i>omit</i> the words and figures "and the rules in Regulation XXVII, 1803, regarding suits so carried on by the Collectors are to be held applicable to it." * * * ³
<i>Omit</i> section 8. |
| X of 1804 ⁴ . | Punishment by Courts-martial of certain State-offences. | <i>Omit</i> section 1.
In section 2, <i>for</i> "the British territories subject to the Government of the Presidency of Fort William" <i>read</i> "the territories under the administration of the Chief Commissioner of Oudh".
In section 3, <i>for</i> "real and personal" <i>read</i> "moveable or immoveable". |
| XI of 1806 ⁴ . | Assistance to troops and travellers passing through districts. | <i>Omit</i> sections 1, 7, 9 to 20 (both inclusive), and so much of the rest of the Regulation as authorizes Collectors and their Native officers, or Magistrates and their Police-officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers.
<i>For</i> "Collectors of Revenue" and "Collector" <i>read</i> "Deputy Commissioner" throughout the Regulation.
In sections 2 and 3, <i>for</i> "the Company's territories" <i>read</i> "Oudh".
In section 2 <i>omit</i> the last sentence.
In section 4, clause <i>Third</i> , <i>for</i> "Governor General in Council" <i>read</i> "Chief Commissioner".
In section 5, <i>omit</i> "the Company's". * * * ²
In section 6, <i>for</i> "Magistrate" <i>read</i> "Deputy Commissioner," and <i>for</i> "on the part of the Collector" <i>read</i> "by the Deputy Commissioner".
In section 8, <i>for</i> "the Company's provinces" <i>read</i> "Oudh". * * * ³ |

¹ The words "for 'city' read 'jurisdiction'" and at the end of these modifications to Reg. 33 of 1803, the words and figures "In section IV, omit the words " or in either of the cities of Patna, Dacca and Moorshedsabad" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), see Sch. I, General Acts, Vol. VI, p. 44.

² The words "for 'Board of Revenue' read 'Commissioner'" in the modifications to Reg. 33 of 1803 and Reg. 11 of 1806, were repealed by the United Provinces Act, 1880 (20 of 1880), s. 35, *supra*, p. 407.

³ *Supra*, p. 25.

⁴ *Supra*, p. 27.

⁵ The words and figures "and omit the words and figures" (under the rules prescribed by Regulation V of 1804), "and in Regulation 27 of 1803" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

(The Second Schedule.)

THE SECOND SCHEDULE—*continued*.PART I.—BENGAL REGULATIONS—*continued*.

| Number and year. | Subject. | Modifications. |
|------------------------------|---|---|
| * * * . . . | * * * . . . | * * * * * |
| III of 1818 ² . . | State Prisoners . . | <p>In section 1, <i>omit</i> "situated within the territories dependent on the Presidency of Fort William," and from "which are to take effect" to the end of the section.</p> <p>In section 2, clause <i>Third</i>, <i>omit</i> "within territories subject to the Presidency of Fort William".</p> <p>In section 4, <i>omit</i> clause <i>First</i>.</p> <p>In the same section, clause <i>Second</i>, for "Zillah or City Magistrate" read "Deputy Commissioner," and for "Judge of Circuit" read "Commissioner of Division".</p> <p>In section 9, for "to the Provincial Court of Appeal and Circuit and to the Sudder Dewanny Adawlut and Nizamut Adawlut" read "and to the Judicial Commissioner."</p> <p><i>Omit</i> section 10.</p> |
| * * * . . . | * * * * * | * * * * * |
| XI of 1822 ⁴ . . | Non-liability of Government for errors of a Court of Justice. | <i>Omit</i> the whole except section 38. |
| VI of 1825 ⁵ . . | Supply of troops on the march. | <p>In the preamble, <i>omit</i> the last twenty words.</p> <p>In section 2, <i>omit</i> "in pursuance of section III, Regulation XI, 1806," and <i>omit</i> "sicca".</p> <p>In section 4, for "Board of Revenue in whose jurisdiction the district may be situate" and "Board" read "Commissioner".</p> <p>In section 5, <i>omit</i> "on the stamped paper prescribed for other appeals to the Revenue Boards" and for "the proper Board" and "the Board" read "the Commissioner".</p> |
| | * * * | |

¹ The entry relating to Reg. 17 of 1806 was repealed by the Transfer of Property Act, 1882 (4 of 1882), General Acts, Vol. IV; the entry relating to Reg. 20 of 1810 by the Cantonments Act, 1849 (13 of 1849), General Acts, Vol. V, and the entry relating to Reg. 6 of 1817 by the Indian Treasure Trove Act, 1878 (6 of 1878), General Acts, Vol. III.

² *Supra*, p. 41.

³ The entry relating to Reg. 6 of 1819 was repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

⁴ *Supra*, p. 45.

⁵ *Supra*, p. 54.

(The Second Schedule.)

THE SECOND SCHEDULE—*continued.*PART I.—BENGAL REGULATIONS—*continued.*

| Number and year. | Subject. | Modifications. |
|---------------------------|-------------------------|---|
| XI of 1825 ¹ . | Alluvion and Diluvion . | <i>Omit section 1.</i>

In section 3, <i>omit</i> " either " and " or the sea ".
In section 4, clause <i>First</i> , <i>omit</i> " whether " and " or of the sea," and <i>for</i> " the provisions of Regulation II, 1819, or of any other Regulation in force", <i>read</i> " any law in force for the time being "; clause <i>Third</i> , <i>omit</i> " or in the sea " and " or sea "; clause <i>Fifth</i> , <i>omit</i> " or the sea ".
In section 5, <i>for</i> " Zillah and City Magistrates " <i>read</i> " Deputy Commissioners". |
| * * * | * * * | * * * |

PART II.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

| | | |
|-----------------------------|------------------|---|
| * * * | * * * | * * * |
| XX of 1856 ⁴ . | Chaukidars . . . | In the preamble, <i>after</i> " Bengal " <i>add</i> " and the territories under the administration of the Chief Commissioner of Oudh ".
<i>Omit</i> the words " of circuit " wherever they occur after " Commissioner ".
<i>Omit</i> section 40. |
| XIII of 1857 ⁵ . | Opium . . . | In the title, <i>after</i> " the Presidency of Fort William in Bengal " <i>read</i> " and the territories under the administration of the Chief Commissioner of Oudh." *
* * * ⁶
In section 3, <i>omit</i> " being covenanted servants of the Company ". |
| * * * | * * * | * * * |
| XXII of 1871 ⁷ . | Chaukidars . . . | In section 1, <i>after</i> " Presidency " <i>insert</i> " or territories."
In section 3, <i>omit</i> the words " of circuit ".
<i>Omit</i> section 6. |

¹ *Supra*, p. 58.² The entry relating to Regulation 20 of 1825 was repealed by the Criminal Procedure Code, 1882 (Act 10 of 1882).³ The entry relating to Act 19 of 1853 was repealed by the Repealing and Amending Act, 1903 (1 of 1903).⁴ *Supra*, p. 86.⁵ *Supra*, p. 104.⁶ The portion which related to s. 2 of Act 13 of 1857 here omitted was repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.⁷ The entry relating to the Minors Act, 1858 (40 of 1858), was repealed by the Guardians and Wards Act, 1890 (8 of 1890), General Acts, Vol. V.⁸ *Supra*, p. 152.

ACT No. III OF 1878.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[9th February, 1878.]

An Act to amend the law relating to the levy of rates on land in the ²North-Western Provinces.

WHEREAS, in order to defray the expenditure incurred and to be incurred for the relief and prevention of famine, it is necessary to make a permanent increase in the annual revenue, and it is accordingly expedient to provide, in the ²territories administered by the Lieutenant-Governor of the North-Western Provinces, for the levy on land of rates in addition to those now applied to local purposes; and whereas it is therefore expedient to repeal the North-Western Provinces Local Rates Act, 1871, and Act No. VII of 1877, and to re-enact them with the amendments hereinafter appearing; It is hereby enacted as follows:—

Preamble.

I.—*Preliminary.*

1. This Act may be called the North-Western Provinces Local Rates Act, 1878:

Short title

It extends only to the ²territories administered by the Lieutenant-Governor of the North-Western Provinces;

Extent.

and it shall come into force on such date ³as the Governor General in Council, by notification in the Gazette of India, directs.

Commence-
ment.

2. On and from such date the North-Western Provinces Local Rates Act, 1871, and Act No. VII of 1877 (*to amend the law relating to assignments from the General Provincial Fund established under the North-Western Provinces Local Rates Act, 1871*), shall be repealed. But all rates imposed, rules prescribed, allotments made, committees appointed, powers conferred and notifications published under the former Act shall be deemed to have been respectively imposed, prescribed, made, appointed, conferred and published hereunder.

Repeal of
Acts XVIII
of 1871 and
VII of 1877.

3. In this Act—

“Commissioner” means the chief officer in charge of the revenue-administration of a division:

Interpreta-
tion-clause.

¹ For Statement of Objects and Reasons, see *Gazette of India*, 1878, Pt. V, p. 10; and for Proceedings in Council, see *ibid*, Supplement, pp. 130, 136, and 274.

² Now “the Province of Agra”, see Proclamation No. 99C-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ The 1st April, 1879—see *Gazette of India*, 1879, Pt. I, p. 248.

XVIII of
1871.XVIII of
1871.

Act No. 2 of 1878, Bengal Land Revenue (Settlement) Regulation, 1833, s. 24, which was passed through the Council.

"Collector" means the chief officer in charge of the revenue-administration of a district :

"land" means land used for agricultural purposes, or waste-land which is culturable :

¹ ["tenant," used in reference to any land, means a tenant holding directly from the landlord of such land, and also includes an under-proprietor of such land, and a person bound to pay or deliver anything to such landlord in respect of the use and occupation of such land :]

"landlord" means the person responsible for the payment of the Government land-revenue, if any, assessed on an estate, and includes a muafidar, nazranadar or other person holding land whereof the revenue has, either wholly or in part, been released, compounded for, redeemed or assigned :

"estate" means all or any part of a village separately assessed to the land-revenue, or separately exempt from the payment thereof :

"year" means the year commencing on the first day of April.

II.—Rates on land in Districts of which the Settlement is liable to Revision.

Rate on estates where the settlement has expired.

4. Every estate situate in any district in which the term of the settlement of the land-revenue made under Regulation IX of 1833² has expired shall be liable to the payment of such rate, not exceeding five per cent. on its annual value, as the Lieutenant-Governor from time to time imposes.

Such rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate :

Provided that in estates in which, before the passing of this Act, provisional engagements have been taken from the landlord for the payment of the land-revenue and cesses in one consolidated sum, and in which it appears to the Lieutenant-Governor inexpedient to cancel such engagements, one-eleventh part of such sum shall be deducted on account of such cesses, and shall be treated in all respects as if it were a portion of a rate levied under the former part of this section.

Further rate.

Every estate situate in a district of which the land-revenue is liable to periodical revision shall be liable, in addition to any rates levied under the

¹ This definition was substituted for the original definition by the N.-W. P. Land-revenue Act, 1879 (8 of 1879), s. 28, *infra*, p. 231.

The original definition was as follows :—

" "Tenant" means any person using or occupying land, and liable to pay or deliver rent therefor."

² The Bengal Land-revenue (Settlement Officers and Deputy Collectors) Regulation, 1833, *supra*, p. 75.

foregoing portion of this section, to the payment of such further rate, not exceeding one per cent. on its annual value, as the Lieutenant-Governor from time to time imposes.

Such further rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate.

"Annual value" means as follows:—

- (1) in cases in which the settlement of the land-revenue is liable to periodical revision, it means double the amount of the land-revenue for the time being assessed on an estate;
- (2) in cases in which such settlement is not liable to such revision, or in which the land-revenue has been wholly or in part, released, compounded for, redeemed or assigned, it means double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue on the estate.

III.—Rates on Land in Estates of which the Land-revenue is not liable to periodical Revision.

5. Every estate situated in a district of which the land-revenue is not liable to periodical revision shall be liable to the payment of such rate as the Lieutenant-Governor from time to time imposes,¹ not exceeding two annas for each acre under cultivation, or which has been cultivated within the three years next before the assessment of the rate.

Rate on estates where revenue is not periodically revised.

The Lieutenant-Governor may from time to time impose upon any such estate, in addition to any rate imposed under the first clause of this section, a further rate of such amount, not exceeding half an anna for each acre as aforesaid, as he thinks fit.

Further rate.

6. The rate or further rate shall be paid by the landlord independently of and in addition to, any land-revenue assessed on the estate, and in addition to the cess levied now on account of roads.

Rate to be paid by landlord.

7. The Lieutenant-Governor shall from time to time, as occasion requires, make rules¹ for ascertaining the area of the land assessable under section 5.

Lieutenant-Governor to prescribe rules for ascertaining area of assessable land. Landlord's right to recover half rate from tenants.

8. The landlord may recover, from every tenant of land on which such rate or further rate has been assessed, and for the payment of which the landlord is liable, an amount equal to one-half of the rate or further rate assessed on the land held by such tenant.

¹ For rules made under ss. 5 and 7 as to the imposition and assessment of the acreage tax on permanently settled lands, see those noted on p. 46 of List 4 of the U. P. List of Local Rules and Orders, Ed. 1904, Pt. I, Vol. I.

See also those noted under s. 9.

Power to make rules as to when a landlord may recover rates from tenants holding at fixed or beneficial rates. Rates to be carried to general fund.

9. The Lieutenant-Governor may from time to time make rules¹ consistent with this Act for determining the cases in which a landlord shall be entitled to recover, from tenants holding at fixed or beneficial rates of rent, the whole or any portion of the rate or further rate assessed on the land held by such tenants.

IV.—Manner in which the Rates are to be expended.

10. The amount standing at the credit of the fund constituted under section 9 of the said North-Western Provinces Local Rates Act, 1871,² at the time this Act comes into force,³ and the proceeds of all rates imposed under this Act, shall be carried to the credit of a general provincial fund. XVIII of 1871.

Appropriation for increasing revenue available for famine purposes.

11. (a) From such fund the Lieutenant-Governor shall in each year appropriate, in such manner as the Governor General in Council from time to time directs, such amount, not exceeding the proceeds of the further rates assessed in such year under sections 4 and 5, as the Governor General in Council may direct, for the purpose of increasing the revenues available for defraying expenditure incurred or to be incurred for the relief and prevention of famine in the said territories, or, if the Governor General in Council so directs, in any other part of British India.

Assignment for canals and railway.

(b) The Lieutenant-Governor may, from time to time, assign from such fund such amount as he thinks fit, to be applied in payment of charges incurred or to be incurred on account of such canals and railways as he, with the previous sanction of the Governor General in Council, may declare to be works of general provincial utility:

Provided that the amounts so assigned in any year shall not exceed one-tenth of the proceeds of the rates assessed in such year under the first clause of section 4 and the first clause of section 5.

Allotment for local objects.

4(c) Subject to the appropriation directed by clause (a), the Lieutenant-Governor may, from time to time, reserve from such fund such amounts as he

¹ For rules under this Sec. in conjunction with Ss. 4, 5, 7, 18 and 20, see those noted on p. 46 of list 4 of the U. P. list of Local Rules and Orders, Ed 1904, Pt. I, Vol. I.

² Repealed by s. 2 of this Act.

³ That is, the 1st April, 1879—see *Gazette of India*, 1879, Pt. I, p. 248.

⁴ Clauses (c) and (d) were substituted for the original clause (c) by the United Provinces Local Boards Act, 1883 (14 of 1883), s. 56, *infra* p. 259.

The original clause (c) was as follows:—

“ Subject to the appropriation directed by clause (a), the Lieutenant-Governor shall from time to time allot from such fund such amounts as he thinks fit, to be applied in each district for expenditure on all or any of the following purposes:—

(1) the construction, repair and maintenance of roads and other means of communication;
(2) the maintenance of the rural police and district-post;

thinks fit, to be applied in or for the benefit of each district for expenditure on all or any of the following matters :—

- (1) the maintenance of the village and road police and the district-post ;
- (2) the construction, repair and maintenance of lunatic asylums ;
- (3) the registration of traffic ; and
- (4) any other matter tending to promote the welfare of the district which it is in his opinion necessary to place under provincial and not under local administration.

¹(d) Subject as aforesaid, the Lieutenant-Governor may allot from such fund such amounts as he thinks fit, to the district fund constituted under the XIV of 1883. North-Western Provinces and Oudh Local Boards Act, 1883 :²

Provided that the amounts so reserved and allotted in any year for the benefit of any district shall not be less than nine-tenths of the proceeds of the rates assessed under the first clause of section 4 and the first clause of section 5 in such district in such year.

12. [*Works benefiting several districts.*] *Rep. Act XIV of 1883, s. 57.*

13. [*Unexpended portion of assignment.*] *Rep. Act XIV of 1883, s. 57.*

³14. Accounts of the receipts in respect of all rates levied under this Act shall be kept in each district, and shall at all reasonable times be open to the inspection of the District Board constituted for the district under the XIV of 1883. North-Western Provinces and Oudh Local Boards Act, 1883.² Accounts to be kept.

An abstract of such accounts shall also be published annually in the local official Gazette.

15. [*Local committees*] *Rep. Act XIV of 1883, s. 57.*

- (3) the construction and repair of school-houses, the maintenance and inspection of schools, the training of teachers and the establishment of scholarships ;
- (4) the construction and repair of hospitals, dispensaries, lunatic asylum, markets, wells and tanks ; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote public health, comfort or convenience ;

Provided that the amount so allotted in any year for any district shall not be less than nine-tenths of the proceeds of the rates assessed under the first clause of section 4 and the first clause of section 5 in such district in such year."

¹ See footnote on page 216, *supra*.

² *Infra*, p. 282.

This section was substituted for the original s. 14 by Act 14 of 1883, s. 58, *infra* p. 300.

The original section was as follows :—

"14. Accounts of the receipts in respect of all rates levied under this Act and of the receipts and expenditure of such allotment, shall be kept in each district. Such accounts shall, at all reasonable times, be open to the inspection of the local Committee hereinafter mentioned. An abstract of such accounts shall be prepared annually in English and in the Vernacular language of the district, and shall be open to public inspection at suitable places within the district without payment of any fee.

An abstract of such accounts shall also be published annually in the local Gazette."

V.—Miscellaneous.

Suits under
Act cogniz-
able by
Collector.

16. Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Collector as if such suits had been included among the suits mentioned in section ¹[93 of the North-Western Provinces Rent Act, 1881;] XII of 1881. and appeals from decisions in such suits shall be cognizable in accordance with the provisions of ²[the North-Western Provinces Rent Act, 1881].

Limitation of
appeals.

17. In matters connected with the assessment and collection of any sum leviable under this Act, an appeal shall lie to the Commissioner from the order of the Collector : Provided that such appeal be presented within thirty days from the date of the order.

The Commissioner's decision on such appeal shall be final ; but all such decisions may be reviewed by the Board of Revenue.

Power to
invest
subordinate
officers with
powers of
Collector.

18. The Lieutenant-Governor may invest any officer subordinate to a Collector with all or any of the powers of a Collector for the purposes of this Act.

The orders passed by any officer so invested shall be subject to revision by the Collector of the district.

Recovery of
rates.

19. All sums due on account of any rate imposed under this Act shall be recoverable as if they were arrears of land-revenue due on the land on account of which the rate is payable.

Supplement-
ary powers
of Local
Government

20. The Lieutenant-Governor may, by notification, from time to time—

(a) prescribe by what instalments and at what times such rate shall be payable, and by whom it shall be assessed, collected and paid ;

(b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement ;

³(c) exempt any portion of the territories under his Government from the operation of this Act, or exempt any estate from liability to pay the whole or any part of any rate under this Act, and cancel such exemptions ;

(d) direct fresh measurements and vary the assessment accordingly.

Every notification under this section shall be published in the local Gazette.

¹ These words and figures in s. 16 were substituted for the words and figures "twenty-three of Act No. 10 of 1859, and in section 1 of Act No. 14 of 1863" by s. 29 of the North-Western Provinces and Oudh Land-revenue Act, 1879 (8 of 1879), *infra*, p. 231.

² These words and figures at the end of s. 16 were substituted for the words and figures "Act No. 10 of 1859 and Act No. 14 of 1863" by s. 29 of Act 8 of 1879.

³ For exemptions under this clause, see those noted on p. 47 of List 4 of the U. P. List of Local Rules and Orders, Ed. 1904, Vol. I, Pt. I.

ACT No. XIV OF 1878. ¹

[APPLIES TO THE UNITED PROVINCES.]

[1st August, 1878.]

An Act to assimilate certain powers of the Local Governments of the ²North-Western Provinces and Oudh.

WHEREAS the Lieutenant-Governorship of the North-Western Provinces and the ³Chief Commissionership of Oudh are now united under the administration of a single officer; and whereas it is expedient that, so long as such union continues, the powers of the Local Government of Oudh under the enactments hereinafter mentioned should resemble the powers of, the Local Government of the ²North-Western Provinces under the same or like enactments * * * * *; It is hereby enacted as follows:—

1. [Omissions from Act XIX of 1868, ss. 29, 85, 87 and 91.] Rep. Act XXII of 1886.

2. [Alteration of Act XXVI of 1870, section 6.] Rep. Act IX of 1894.

3. [Alteration of Act XXXII of 1871.] Rep. Act XIII of 1879.

4. [Omissions from Act XFII of 1876.] Rep. Act XX of 1890, s. 21 (2), and Act XII of 1891.

5. [Omissions from Act XFVIII of 1876, s. 39.] Rep. Act XX of 1890, s. 35, and Act XII of 1891.

6. For the purpose of the Prisoners Act, 1871,⁴ sections 30 and 31, and of the Reformatory Schools Act, 1876⁵, the ²North-Western Provinces and Oudh shall be deemed to be subject to the same Local Government.

7. [Validation clause.] Rep. Act XII of 1891.

8. [Commencement and continuance of Act.] Rep. Act XII of 1891.

¹ For Statement of Objects and Reasons, see Gazette of India, 1878, Pt. V, p. 43; and for Proceedings in Council, see *ibid.*, Supplement, pp. 138, 208 and 1294.

² Now the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces Designation Act, 1902 (7 of 1902), *infra*, p. 527.

³ These titles have now merged in that of the Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

⁴ The words "and whereas doubts have arisen as to the validity of certain acts done since the said union, and it is expedient to remove such doubts" were repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

⁵ Rep. (except as to s. 15) by the Prisoners Act, 1900 (3 of 1900), see now ss. 29 and 30 of that Act, General Acts, Vol. VII.

⁶ See now Act 8 of 1897 (General Acts, Vol. VI), by which Act V of 1876 was repealed.

⁷ This section is now practically obsolete as these two provinces are now subject to the same Local Government, and are known as the United Provinces of Agra and Oudh; see the second footnote on this page.

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V of 1871.
V of 1876

THE NORTHERN INDIA FERRIES ACT, 1878.

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ACT No. XVII OF 1878.¹

[APPLIES TO THE UNITED PROVINCES.]

[9th November, 1878.]

An Act to regulate Ferries in Northern India.

WHEREAS it is expedient to regulate ferries in the Punjab, the North- Western Provinces, Oudh,² the Central Provinces, Assam and Ajmer and Merwára ; It is hereby enacted as follows :—

I.—PRELIMINARY.

1. This Act may be called the Northern India Ferries Act, 1878.

Short title.

It extends only to the territories respectively administered by the Lieutenant-Governors of the Punjab and the North-Western Provinces and the Chief Commissioners of Oudh,³ the Central Provinces, Assam and Ajmer and Merwára.

Local extent.

It shall come into force⁴ in each of the said territories on such date as the

Commence-
ment.

¹ For Statement of Objects and Reasons, see Gazette of India, 1878, Pt. V, p. 135; for Preliminary Report of the Select Committee, see *ibid.*, p. 210; for Proceedings in Council, see *ibid.*, Supplement, pp. 286, 325, 1104 and 1194.

² Now "the United Provinces of Agra and Oudh," see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ Now "the Lieutenant-Governor of the United Provinces of Agra and Oudh," see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

⁴ The Act was brought into force in the United Provinces of Agra and Oudh on 1st January, 1879, see North-Western Provinces and Oudh Gazette, 1878, Pt. I, p. 2035.

(I.—Preliminary. Secs. 2-3. II.—Public Ferries. Sec. 4.)

Local Government may, by notification in the Official Gazette, fix in this behalf.

Repeal.

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant-Governor of the ¹North-Western Provinces and the said Chief Commissioners, Bengal Regulation VI of 1819 shall be repealed therein; but all determinations, declarations, orders and rules made, engagements entered into, and securities taken, under that Regulation, and then in force, shall be deemed to be respectively made, entered into and taken under this Act.

Interpretation-clause.

3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry.

II.—PUBLIC FERRIES.

Power to declare, establish, define and discontinue public ferries.

4. The Local Government may from time to time—

- (a) declare what ferries shall be deemed public ferries,² and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;
- (b) take possession of a private ferry and declare it to be a public ferry;
- (c) establish new public ferries³ where, in its opinion, they are needed;
- (d) define the limits of any public ferry;
- (e) change the course of any public ferry; and
- (f) discontinue any public ferry which it deems unnecessary³.

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette:

Provided that, when a river lies between two provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor General in Council, by notification in the Gazette of India, and not otherwise:

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the division in which such ferry is situate, or by such other officer as the Local Government

¹ Now "United Provinces of Agra and Oudh," see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

² For public ferries established in United Provinces of Agra and Oudh—see United Provinces List of Local Rules and Orders, Ed. 1904, list 4, pp. 48 to 51, Vol. I.

³ For instances of such notifications, see the North-Western Provinces and Oudh Gazette, 1899, Pt. I, p. 368.

(II.—Public Ferries. Secs. 5-7A.)

may, from time to time, appoint by name or in virtue of his office in this behalf.

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4, shall be enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government.

Claims for compensation.

6. The immediate superintendence of every public ferry shall, except as provided in section 7¹ [and section 7A], be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the Local Government may, from time to time,² appoint by name or in virtue of his office in this behalf;

Superintendence of public ferries.

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

7. The Local Government may³ direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town;

Management may be vested in municipality;

and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town;

and proceeds paid into municipal fund.

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

*7A. The Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh⁵ may direct⁶ that any public ferry, wholly or partly within the area subject to the authority of a district board in any district in the⁷ North-Western Provinces or Oudh, as the case may be, be managed by that board and may further direct that all or any part of the

Management of ferries may be vested in committees and board.

¹ The words, figure and letter "and section 7A" were inserted in s. 6 by s. 65 of the N.-W. P. and Oudh Local Boards Act, 1883 (14 of 1883), *infra*, p. 800.

² For notification as to the superintendence of ferries, see N.-W. P. and Oudh, Gazette, 1900, Pt. I, p. 716.

³ For notifications declaring that certain ferries may be managed by certain public bodies and the proceeds credited to their funds, see those noted on p. 54 of List 4 of U. P. List of local Rules and Orders, Ed. 1904, Vol. I.

⁴ S. 7A was inserted by the N.-W. P. and Oudh Local Boards Act, 1883 (14 of 1883), s. 64, *infra*, p. 800. Although Act 14 1883 from which s. 7A of this Act derives its force has now been repealed by the U. P. District Boards Act, 1906 (U. P. Act 3 of 1906), s. 7A would appear to be kept in force in virtue of s. 42 (1) (i) of the latter Act, see *infra*, p. 954.

⁵ Now "the Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

⁶ For notifications declaring that certain ferries may be managed by certain district boards see those noted on p. 55 of list 4 of the U. P. List of local Rules and Orders, Ed. 1904, Vol. I.

⁷ Now the Province of Agra or the Province of Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and Act 7 of 1902, s. 2.

proceeds from such ferry be paid into the district fund of that district, and thereupon such ferry shall be managed and such proceeds or part thereof shall be paid accordingly.

Letting
ferry-tolls by
auction.

¹ 8. The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years, with the approval of the Commissioner or by public auction, or otherwise than by public auction for any term with the previous sanction of the Local Government.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 or section 7A, then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

Recovery of
arrears from
lessee.

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land-revenue.

Power to can-
cel lease.

10. The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

Surrender of
lease.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.

Power to
make rules.

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may, from time to

¹ S. 8 was substituted by s. 1 of the Northern India Ferries Act, Amendment Act, 1886 (3 of 1886), *infra*, p. 301.

(II.—Public Ferries. Sec. 12.)

time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules¹ consistent with this Act—

- (a) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries;
- ²[(b) for regulating the time and manner at and in which and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted];
- (c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and
- (d) generally to carry out the purposes of this Act;

and, when the tolls of a ferry have been let under section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

- (e) for collecting the rents payable for the tolls of such ferries;
- (f) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same and
- (g) in cases in which the traffic is conveyed in boats, for regulating—
 - (1) the number and kinds of such boats and their dimensions and equipment;
 - (2) the number of the crew to be kept by the lessee for each boat;
 - (3) the maintenance of such boats continually in good condition;
 - (4) the hours during which, and the intervals within which, the lessee shall be bound to ply; and
 - (5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

¹ For rules made under the powers conferred by this section in the United Provinces of Agra and Oudh, see the United Provinces List of Local Rules and Orders, list 4, p. 53, Vol. I, Ed. 1904.

² Cl. (b) of s. 12 was substituted by s. 1 (2) of the Northern India Ferries Act Amendment Act, 1886 (8 of 1886), *infra*, p. 302. The original clause was the same as the present clause but for the addition of the last sentence beginning with the words "and prescribing."

(II.—Public Ferries. Secs. 13-15.)

Private ferry
not to ply
within two
miles of
public ferry
without
sanction.

13. ¹[Except with the sanction of the Magistrate of the district or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry] :

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase ² the said distance of two miles to such extent as it thinks fit.

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats ³[which do not ply for hire or] which the Local Government expressly exempts from the operation of this section.

Person using
approaches,
etc., liable to
pay.
Tolls.

14. Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry.

⁴15. Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service :

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the ⁵[lease], shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

¹ This paragraph was substituted by s. 2 of the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), *infra*, p. 302. The original paragraph ran as follows :—

“ No person shall, except with the sanction of the officer charged with the superintendence of a public ferry, keep a ferry boat for the purpose of plying for hire to or from any point within a distance of two miles from the limits of such public ferry.”

² For instance of such a notification, see North-Western Provinces and Oudh Gazette, 1889, Pt. I, p. 508.

³ These words were inserted by s. 2 (2) of the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), *infra*, p. 302.

⁴ So far as this section exempts from the payment of tolls, persons, animals, vehicles or other things which are exempted by s. 3 of the Indian Tolls (Army) Act, 1901 (2 of 1901), it is repealed by s. 8 of that Act, General Acts, Vol. VII.

For rates and exemptions under s. 15 in the United Provinces of Agra and Oudh, see pp. 55 and 56 of list 4 of the United Provinces List of Local Rules and Orders, Ed. 1904.

As to rates of tolls on bicycles and tricycles, see North-Western Provinces and Oudh Gazette, 1899, Pt. I, p. 691.

⁵ The word “ lease ” was substituted for the word “ auction ” by the Northern India Ferries Act, 1886 (3 of 1886), s. 1 (3), *infra*, p. 302.

(II.—Public Ferries. Secs. 16-18. III.—Private Ferries. Sec. 19.)

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry, Table of tolls.

and shall be bound to produce, on demand, a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf. List of tolls.

17. Except as provided by section 7 ¹[and section 7A], all tolls, rents and compensation received by or on behalf of Government, and all fines levied, under this Act shall be disposed of as follows,² that is to say :— Tolls, rents, compensation and fines how disposed of,

(a) in the territories for the time being administered by the Lieutenant-Governor of the United Provinces of Agra and Oudh such tolls, rents, compensation and fines shall be credited to the Local Government and applied, first to defraying all charges incurred in carrying out this Act in those territories, and then to assisting, in such manner as the Local Government may direct, the district fund of any district in which, or on the borders of which, any ferry is situate.

* * * * *

18. The Local Government may, if it thinks fit, from time to time, fix rates at which any person may compound for the tolls payable for the use of a public ferry. Compounding for tolls.

III.—PRIVATE FERRIES.

19. The Commissioner of the division may, with the previous sanction of the Local Government, from time to time make rules for the maintenance of Power to make rules.

¹ The words, figure and letter “and section 7A” were inserted by s. 65 of the United Provinces Local Boards Act, 1883 (14 of 1883), *infra*, p. 300. Act 14 of 1883 is now repealed by the United Provinces District Boards Act, 1906 (U. P. Act 3 of 1906), but the reference to section 7A and the section itself would appear to be kept in force by s. 42 (1) (i) of that Act.

² But see s. 27 *infra*, as to payment of fines to lessee of public tolls.

³ In its application to the United Provinces, s. 17 is to be read as if this clause had been substituted for the original clauses (a) and (b), see s. 22 of the United Provinces Local and Rural Police Rates Act, 1906 (U. P. Act 2 of 1906), *infra*, p. 939.

The original clauses were as follows:—

(a) in the territories administered by the Lieutenant-Governor of the North-Western Provinces, the residue of such tolls, rents, compensation and fines, after defraying thereout all charges incurred in carrying out this Act in those territories, shall be credited to the fund constituted for those territories by the North-Western Provinces Local Rates Act, 1878;

(b) in the territories administered by the Chief Commissioner of Oudh the residue as aforesaid shall be credited to the fund constituted for those territories by the Oudh Local Rates Act, 1878.

⁴ Clauses (c) and (d) of s. 17 refer only to the Punjab, Central Provinces, Assam and Ajmer Merwara, and are therefore not reprinted in the United Provinces Code.

(III.—Private Ferries. Sec. 20. IV.—Penalties and Criminal Procedure.—
Secs. 21-25.)

order and for the safety of passengers and property at ferries other than public ferries.

Tolls. 20. The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries.

IV.—PENALTIES AND CRIMINAL PROCEDURE.

Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.

21. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 16,

and every lessee who neglects to furnish any return required under section 12, shall be punished with fine which may extend to fifty rupees.

Penalty for taking unauthorized toll, and for causing delay.

22. Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for breach of rules made under sections 12 and 19.

23. Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Cancellation of lease on default or breach of rules.

24. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

Penalties on passengers offending.

25. Every person crossing by any public ferry, or using the approach to or landing-place thereof, who refuses to pay the proper toll, and every person—

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll; or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act; or

(IV.—Penalties and Criminal Procedure. Secs. 26-31.)

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry-boat or upon any bridge, at such a ferry, which is in such a state or so loaded as to endanger human life or property; or

who refuses or neglects to leave or remove any animals, vehicles or goods from, any such ferry-boat or bridge, on being requested by such toll-collector, lessee or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

26. Whoever establishes, maintains or works a ferry in contravention of the provisions of section 13 shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions.

Penalty for maintaining private ferry within prohibited limits.

27. Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Fines payable to lessee.

28. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry or any of his assistants, may seize and detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned.

Penalty for rash navigation and stacking of timber.

29. The police may arrest without warrant any person committing an offence against section 25 or section 28.

Power to arrest without warrant.

30. Any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XVIII² of the Code of Criminal Procedure may try any offence against this Act in manner provided by that Chapter.

Power to try summarily.

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done

Magistrate may assess

¹ Substituted for the original section by s. 2 (3) of the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), *infra*, p. 102. The original section was as follows:—

“Whoever conveys for hire any passenger, animal, vehicle or other thing, in contravention of the provisions of section 13, shall be punished with fine which may extend to fifty rupees.”

² See now Chapter XXII of the Code of Criminal Procedure, 1898 (Act 5 of 1898), in the revised edition, as modified up to 1st April, 1903.

damage done
by offender.

or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or, when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

The Commissioner of the Division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

V.—MISCELLANEOUS.

Power to
take possession
of boats,
etc., on
surrender or
cancellation
of lease.

32. When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

Similar
power in
cases of
emergency.

33. When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Jurisdiction
of Civil
Courts
barred.

34. No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

Delegation
of powers.

35. The Local Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district or to such other officer as it thinks fit, by name or by virtue of his office.

36. [*Validation of proceedings since repeal of Regulation VI of 1819 in Punjab.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

ACT No. VIII OF 1879.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[23rd May, 1879.]

An Act to amend *the*² *North-Western Provinces Land-revenue Act, 1873*, and the North-Western Provinces Local Rates Act, 1878.

XIX of 1873.

WHEREAS it is expedient to amend the North-Western Provinces Land-revenue Act, 1873; It is hereby enacted as follows:—

Preamble.

1. This Act may be called the North-Western Provinces Land-revenue Act, 1879; and shall come into force at once.

Short title.

This section and sections 28 and 29 extend to the whole of the territories for the time being under the administration of the³ Lieutenant-Governor of the North-Western Provinces.

Local extent.

XIX of 1873.

² *The whole of this Act extends to those portions of the said territories to which the whole of the said North-Western Provinces Land-revenue Act, 1873, extends; and every provision of this Act amending any part of the said North-Western Provinces Land-revenue Act, 1873, extends to all other portions of the said territories to which such part may have been, whether before or after the passing of this Act, extended.*

2 and 3, 6—17 and 25 and 27. [*Amendment of certain sections of Act XIX, 1873.*] Rep. U. P. Act I of 1901.

4, 5. [*Amendment of ss. 29 and 30*] Rep. Act XIII of 1882.

18—27. [*Amendment of ss. 193—195, 200, 203, 205, 212, 235, and 257.*] Rep. U. P. Act III of 1899.

III of 1878.

And whereas it is also expedient to amend the North-Western Provinces Local Rates Act, 1878; It is hereby further enacted as follows:—

28. In section 3 of the said North-Western Provinces Local Rates Act, for the definition of “tenant” the following shall be substituted:—

Definition of “tenant” in section 3 of Act III of 1878.

[*Supra*, p. 214.]

29. In section 16 of the same Act shall be substituted—

Amendment of section 16 of same Act.

(a) for the words and figures “twenty-three of Act No. X of 1859, and in section 1 of Act No. XIV of 1863,” the words and figures “ninety-three of the North-Western Provinces Rent Act, 1873⁷”; and

(b) for the words and figures “Act No. X of 1859 and Act No. XIV of 1863,” the words and figures “the North-Western Provinces Rent Act, 1873.”

XVIII of 1873.

¹ For Statement of Objects and Reasons, see Gazette of India, 1877, Pt. V, p. 400; for Proceedings in Council, see *ibid*, Supplement, pp. 2743 and 2744, and *ibid*, 1879, p. 525.

² The words in the title and para. 8 of s. 1 printed in italics are now obsolete, as the Act to which they refer has been repealed by the United Provinces Land-revenue Act, 1901 (U. P. Act 3 of 1901), *infra*, p. 8261.

³ Now the Province of Agra, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

⁷ Act 18 of 1873 was repealed by the Agra Rent Act, 1881 (12 of 1881).

THE OUDH CIVIL COURTS ACT, 1879.

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32. Removal, etc., of ministerial officers of Judicial Commissioner's Court.
33. Removal, etc., of ministerial officers of Judges' Courts.
34. Removal, etc., of ministerial officers of Subordinate Judges' and Munsifs' Courts.
35. Recovery of fines.

CHAPTER VI.

MISCELLANEOUS.

36. Petition-writers.
37. Bar of redemption-suits when mortgage executed before 13th February, 1844.
Redemption-suits not barred where fixed term for redemption had not expired before 13th February, 1856.
38. Vacations.
39. [*Repealed.*]

SCHEDULE.—[*Repealed.*]ACT No. XIII OF 1879.¹

[APPLIES TO THE PROVINCE OF OUDH.]

[30th July, 1879.]

An Act to amend the law relating to Civil Courts in Oudh.

WHEREAS it is expedient to amend the law relating to Civil Courts in Oudh ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Oudh Civil Courts Act, 1879.

Short title.

¹ For Statement of Objects and Reasons, see Gazette of India, 1879, Pt. V, p. 746; for Proceedings in Council, see *ibid*, Supplement, pp. 485, 531 and 593.

(Chapter I.—Preliminary. Sec. 3. Chapter II.—Constitution of Courts.
Secs. 4-7.)

Local extent,
Commence-
ment.

It extends to all the ¹territories for the time being administered by the Chief Commissioner of Oudh ; and it shall come into force on the first day of August, 1879.

2. [Repeal of enactments.] *Rep. Act XIV of 1891, s. 11 (2).*

“District”
defined.

3. In this Act “district” means the area comprised in the local limits of the jurisdiction of the District Judge.

CHAPTER II.

CONSTITUTION OF COURTS.

Grades of
Courts.

4. Besides the Courts established under any other enactment for the time being in force, there shall be four grades of Civil Courts in Oudh (namely) :—

- (1) the Court of the Munsif ;
- (2) the Court of the Subordinate Judge ;
- (3) the Court of the District Judge ;
- (4) the Court of the Judicial Commissioner.

Number of
Judges.

5. The number of District Judges, Subordinate Judges and Munsifs to be appointed under this Act shall be ²fixed, and may from time to time be altered, by the Local Government.

Appointment
of officers
under Act.

6. The Judicial Commissioner shall be appointed by the Local Government with the previous sanction of the Governor General in Council.

The District Judges, Subordinate Judges and Munsifs shall be appointed by the Local Government.

* * * * *

Additional
Judges.

7. When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the Judicial Commissioner, and with the previous sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a Judge under Chapter III of this Act that the District Judge may, with the sanction of the Judicial Commissioner, assign to them ; and in the performance of such duties they shall exercise the same powers as the District Judge.

¹ Now the Provinces of Oudh, *see* Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527. The Chief Commissioner is now Lieutenant-Governor of the United Provinces of Agra and Oudh.

² For Notification increasing the number of District Judges in Oudh, *see* N.-W. P. and Oudh *Gazette*, 1891, Pt. I, p. 131, *see* also note to s. 14, *infra*.

³ The proviso was repealed by the Oudh Courts Act, 1891 (14 of 1891), s. 11 (2), *infra*, p. 412.

The proviso was as follows :—

“provided that the Judicial Commissioner holding office under the Oudh Civil Courts Act, 1871, at the time this Act comes into force, shall be deemed to have been appointed under this Act.”

(Chapter II.—Constitution of Courts. Secs. 8-14.)

8. In the event of the death of a District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station at which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the Subordinate Judge holding his Court at the same place, shall, without relinquishing his ordinary duties, assume charge of the Judge's office at such station;

Temporary
charge of
office of
District
Judge.

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions;

and shall continue in charge of the office until it is resumed by the District Judge, or assumed by an officer duly appointed thereto.

9. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave, when no person is appointed to act for him, the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

Transfer of
proceedings
on death, etc.,
of Subordi-
nate Judge.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

10. The Court of the District Judge shall be deemed to be the principal Civil Court of original jurisdiction in the district over which his jurisdiction extends.

Principal
Civil Court
of original
jurisdiction.

The control over all the Civil Courts in such district is invested in the said District Judge, but subject to the general control of the Judicial Commissioner.

Control over
Civil Courts.

11. The Judicial Commissioner and the District Judges, Subordinate Judges and Munsifs shall appoint the ministerial officers of their respective Courts:

Appointment
of ministerial
officers of
Courts.

Provided that, in the case of the Subordinate Judges and Munsifs, such appointments shall require the sanction of the District Judge to whose control they are respectively subject.

12. The Judicial Commissioner or any District Judge may transfer any ministerial officer from any Court under his control to any other Court under his control.

Transfer of
ministerial
officers.

13. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government

Seal of
Courts.

14. The Local Government may¹ fix, and from time to time alter, the place or places at which any Court under this Act is to be held.

Place of
sitting of
Courts.

¹ For Notifications issued under this power in conjunction with s. 5, see pp. 57 to 59 of List 4 of the United Provinces List of Local Rules and Orders, 1904.

(Chapter III.—General Jurisdiction. Secs. 16-17.)

15. [Power to confer *Munsif's jurisdiction.*] *Rep. United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), s. 2 (1)*¹.

CHAPTER III.

GENERAL JURISDICTION.

Power to fix
local limits of
jurisdiction.

16. The Local Government shall, by notification in the official Gazette,² fix, and may by like notification from time to time vary, the local limits of the jurisdiction of any Civil Court or person invested with the powers of a Civil Court under this Act.

Extent of
original
jurisdiction
of District
Judge ;

17. Subject to the provisions of the Code of Civil Procedure,³ section 15⁴ [and of any other enactment for the time being in force],

of Subordi-
nate Judge ;

(a) the jurisdiction of a District Judge extends to all original suits cognizable by the Civil Courts ;

(b) the jurisdiction of a Subordinate Judge extends to all suits in which the amount or value of the subject-matter in dispute does not exceed ten thousand rupees ; and

of Munsif.

(c) the jurisdiction of a Munsif extends to all suits in which such amount or value does not exceed⁵ [one thousand rupees].

⁶ The Local Government may, from time to time, on the recommendation of the Judicial Commissioner, direct, by notification in the official Gazette,—

(a) with respect to any Munsif named therein, that his jurisdiction

¹ *Infra*, p. 626.

² For notifications issued under this power in conjunction with ss. 5 and 14, *see* pp. 57 to 59 of List 4 of the United Provinces List of Local Rules and Orders, 1904.

³ *See now* Act 14 of 1882, as modified up to 1st December, 1899.

⁴ These words were inserted by the United Provinces Act, 1890 (20 of 1890), s. 39, *infra*, p. 408.

⁵ These words were substituted for the words " five hundred rupees " by Act 20 of 1890, s. 39, *infra*, p. 408.

⁶ This paragraph was substituted for the original proviso by Act 20 of 1890, s. 39, *infra*, p. 408. That proviso ran as follows :—

" Provided that the Local Government may from time to time, by notification in the official Gazette, confer upon any Munsif, jurisdiction in suits in which the amount or value of the subject-matter in dispute exceeds five hundred rupees but does not exceed one thousand rupees, and may by like notification withdraw such jurisdiction."

Nothing in section 17 applies to Honorary Munsifs and Benches, *see* s. 13 of the United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), *infra*, p. 629.

(Chapter III.—General Jurisdiction. Secs. 18-20.)

shall extend, subject as aforesaid, to all suits of such value, not exceeding two thousand rupees, as may be specified in the notification, or

- (b) with respect to any Subordinate Judge named therein, that his jurisdiction shall extend, subject as aforesaid, to all original suits cognizable by the Civil Courts,

and may from time to time, by like notification, withdraw any jurisdiction so conferred.

¹ 18. (1) An appeal from a decree or order of a Subordinate Judge in an original suit or proceeding shall, when an appeal is allowed by law, lie—

Appeals from decrees and orders of Subordinate Judges and Munsifs.

- (a) to the District Judge where the value of the suit in which, or in any proceeding arising out of which, the decree or order was made did not exceed five thousand rupees, and

- (b) to the Judicial Commissioner in any other case.

(2) An appeal from a decree or order of a Munsif shall, when an appeal is allowed by law, lie to the District Judge.

(3) The Judicial Commissioner may, from time to time, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals from all or any of the decrees or orders of any Munsif shall be preferred to such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

19. Every District Judge may from time to time, subject to the orders of the Judicial Commissioner, refer to any Subordinate Judge under his control any appeals pending before him from the decrees and orders of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

Power to refer to Subordinate Judge appeals from Munsifs.

The District Judge may withdraw any appeals so referred, and hear and dispose of appeals so withdrawn.

20. Appeals from the decrees and orders of District Judges and Additional Judges in original suits and proceedings shall, when such appeals are allowed by law, lie to the Judicial Commissioner.

Appeals from District and Additional Judges.

21. [*When Judicial Commissioner may receive second appeal.*] Rep. Act XIV of 1891, s. 11 (1).

22. [*Appeals from decrees, &c., passed before Act comes into force.*] Rep. Act XIV of 1891, s. 11 (2).

¹ This section was substituted for the original s. 18 by Act 20 of 1890, s. 40, *infra*, p. 408. The original section was as follows:—

“Appeals from the decrees and orders of Munsifs and Subordinate Judges in original suits and proceedings shall, when such appeals are allowed by law, lie to the District Judge:—

Provided that the Judicial Commissioner may from time to time, subject to such restrictions as he thinks fit, order that all or any of the appeals from the decrees and orders of a Munsif shall be preferred to such Subordinate Judge as may be mentioned in the order; and such appeals shall thereupon be preferred accordingly.”

(Chapter III.—General Jurisdiction, Sec. 23. Chapter IV.—Special Jurisdiction. Secs. 24-27.)

Presiding officer of Court not to try suit, &c., in which he is interested.

Mode of disposing of such suit, &c.

23. No presiding officer of any Court having jurisdiction under this Act shall try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself, or shall adjudicate upon any proceeding connected with or arising out of such suit or appeal.

When any such suit, appeal or proceeding comes before any such presiding officer, he shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by section 25 of the Code of Civil Procedure. ¹

² [In the event of an appeal being preferred from a judgment or order passed by a Judicial Commissioner or an Additional Judicial Commissioner in any other capacity, or in which he has any personal interest, the case shall be heard by the Additional Judicial Commissioner or the Judicial Commissioner as the case may be.]

CHAPTER IV.

SPECIAL JURISDICTION.

Power to invest with Small Cause Court jurisdiction.

24. The Local Government may invest, within such local limits as it from time to time fixes, any District Judge, Additional Judge or Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of ³ [one hundred rupees]; and may, whenever it thinks fit, withdraw such jurisdiction from the Judge or Munsif so invested.

25. [Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.] *Rep. Act XIV of 1891, s. 11 (2).*

26. [Disposal of proceedings so transferred.] *Rep. Act XIV of 1891, s. 11 (2).*

Jurisdiction

27. For the purposes of the ⁴ Indian Divorce Act, the ⁵ [District Judge]

IV of 1869.

¹ See now Act 14 of 1882, as modified up to 1st December, 1899.

² This paragraph was substituted by the Oudh Courts Act, 1891 (14 of 1891), s. 11 (3), *infra*, p. 416.

The original paragraph was as follows:—

"In the event of an appeal being preferred to a Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interests he shall report the fact to the Local Government, which may transfer the case to the High Court of the North-Western Provinces for disposal, or appoint an officer to be an Additional Judicial Commissioner for the disposal of the case."

³ These words were substituted for the words "fifty rupees" by the United Provinces Act 20 of 1890, s. 41, *infra*, p. 408.

Section 24 does not apply to Honorary Munsifs and Benches, *see* United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), s. 13, *infra*, p. 629.

⁴ General Acts, Vol. I.

⁵ These words substituted for the words "Judicial Commissioner" by Act 20 of 1890, s. 42, *infra*, p. 408.

(Chapter V.—Misconduct of Officers. Secs. 28-34.)

shall, throughout the said territories to which this Act applies, be deemed to be the Commissioner of the Division. under Divorce Act.

CHAPTER V.

MISCONDUCT OF OFFICERS.

28. The Judicial Commissioner may, with the previous sanction of the Governor General in Council, be suspended or removed by the Local Government.

Suspension and removal of Judicial Commissioner.
Suspension or removal of subordinate judicial officers by Local Government.

29. Any District Judge, Additional Judge, Subordinate Judge or Munsif may be suspended or removed by the Local Government.

30. The Judicial Commissioner may, whenever he sees urgent necessity for so doing, suspend any Subordinate Judge or Munsif under his control.

Suspension of Subordinate Judge or Munsif by Judicial Commissioner.

Whenever the Judicial Commissioner exercises this power, he shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

Suspension of Munsif by District Judge.

31. Any District Judge may, whenever he sees urgent necessity for so doing, suspend any Munsif under his control.

Whenever the District Judge suspends any such Munsif, he shall forthwith send to the Local Government, through the Judicial Commissioner, a full report of the case, with the evidence (if any); and the Local Government shall make such order thereon as it thinks fit.

32. The Judicial Commissioner may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary.

Removal, &c., of ministerial officers of Judicial Commissioner's Court.
Removal, &c., of ministerial officers of Judges' Courts.

33. The Judicial Commissioner, and, subject only to the general control of the Judicial Commissioner, the Judges of the District Courts, may remove or suspend the ministerial officers of such Courts, or fine them in an amount not exceeding one month's salary.

¹ 34. Any Subordinate Judge or Munsif may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Judicial Commissioner, may, on appeal or otherwise, reverse or modify every such order.

Removal, &c., of ministerial officers of Subordinate Judges' and Munsifs' Courts.

¹ Section 34 does not apply to Honorary Munsifs and Benches, see United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), *infra*, p. 629.

(Chapter V.—*Misconduct of officers. Sec. 35. Chapter VI.—Miscellaneous, Secs. 36-38.*)

The Judicial Commissioner (or the District Judge within whose jurisdiction such Court is situate) may by order suspend or remove any such, ministerial officer.

Recovery of
fines.

35. Any fine imposed under this Chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

CHAPTER VI.

MISCELLANEOUS.

Petition-
writers.

36. The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules—

- (a) declaring what persons shall be permitted to practise as petition-writers in the Civil Courts of Oudh; and
- (b) regulating the conduct of persons so practising.

Whoever breaks any rule made under this section shall be punished with fine which may extend to fifty rupees.

Bar of re-
demption-
suits when
mortgage
executed
before 13th
February,
1844.

37. When a mortgagee shall under or by virtue of a mortgage executed before the thirteenth of February, 1844, have obtained possession of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding.

Redemption -
suits not
barred where
fixed term
for redemp-
tion had not
expired
before 13th
February,
1856.

Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the thirteenth day of February, 1856: Provided that if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

Vacations.

38. Subject to such orders as may from time to time be issued by the Governor General in Council, and to the approval of the Local Government, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in the Courts subordinate to him.

Such list shall be published in the local official Gazette, and the said days shall be observed accordingly.

39. [*Pending proceedings.*] *Rep. Act XIV of 1891, s. 11 (2).*

SCHEDULE.—[*Acts repealed.*] *Rep. Act XIV of 1891, s. 11 (2).*

¹ For rules, see N.-W. P. and Oudh Gazette, 1882, Pt. II, p. 1282.

(Secs. 1-3.)

ACT No. XIV OF 1879.¹

[APPLIES TO THE UNITED PROVINCES.]

[5th September, 1879.]

An Act for the regulation and control of hackney-carriages in certain Municipalities and Cantonments.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows :—

1. This Act may be called the Hackney-carriage Act, 1879 :

and it shall come into force at once ;

but nothing herein contained shall affect any power conferred by any law relating to municipalities,² or any rule made in exercise of any such power.

2. In this Act—

“hackney-carriage” means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies for hire ; and

“committee” means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any enactment for the time being in force.

3. ³ [The Lieutenant-Governors of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioners of the Central Provinces], Assam, Ajmere and Coorg, may, by notification in the official Gazette, ⁴ apply this Act to any municipality in the territories administered by them respectively.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law ⁵ for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Short title.
Commence-
ment.
Saving.

Interpreta-
tion-
clause.

Application
of Act to
municipali-
ties.

Power of
committees
to make rules.

¹ For Statement of Objects and Reasons, see Gazette of India, Pt. V, p. 52 ; and for Proceedings in Council, see *ibid*, Supplement, pp. 49, 78 and 1141.

² For the law relating to municipalities in the United Provinces of Agra and Oudh, see the United Provinces Municipalities Act, 1900 (U. P. Act I of 1900), *infra*, p. 667.

³ The opening words of s. 3 were substituted for the words “ the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma,” by the Repealing and Amending Act, 1903 (I of 1903), Bengal Code, Ed. 1904, Vol. I, s. 20.

⁴ For notifications applying the Act to municipalities in the United Provinces, see the list given in pp. 60 to 65 of list 4 of the United Provinces list of local Rules and Orders, Ed. 1904, Vol. I.

⁵ For the law relating to municipalities in the United Provinces of Agra and Oudh, see the United Provinces Municipalities Act, 1900 (United Provinces Act I of 1900), *infra*, p. 667, but no rules made under cls. (d) and (e) of s. 123 apply to any vehicle to which Act 14 of 1879 applies, see the proviso to that section.

(Secs. 4-6.)

Confirmation and publication of rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner ¹ as the Local Government may, from time to time, prescribe, have the force of law :

Power of Local Government to rescind rules.

Provided that the Local Government may, at any time, rescind any such rule.

Power to make rules for cantonments.

4. The Local Government of any of the said territories may, from time to time, subject to the control of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it * * * * *

All rules made under this section, when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law.

Power to extend operation of rule beyond limits of municipality or cantonment.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned :

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor General in Council.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

What rules under sections 3 and 4 may provide for.

6. The rules to be made under section 3 or section 4 may, among other matters,—

- (a) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf ;
- (b) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf ;
- (c) provide for the issue of the licenses referred to in clauses (a) and (b), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor ;

¹ For notification defining manner of publication, see North-Western Provinces and Oudh Gazette, 1890, Pt. III, p. 8.

² The words "and the Governor General in Council may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned," were repealed by the Cantonments Act, 1889 (13 of 1889), General Acts, Vol. V.

(Secs. 7-8.)

- (d) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;
- (e) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept;
- (f) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;
- (g) provide for the numbering of such carriages;
- (h) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;
- (i) appoint places as stands for hackney-carriages, and prohibit such carriages waiting for hire except at such places;
- (j) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;
- (k) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;
- (l) require the owner or person in charge of any such carriage to keep a printed list of fares, in English and such other language as may be prescribed, affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;
- (m) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges; and
- (n) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Penalty for breach of rules.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and

Disposal of fees and payment of expenses.

debited respectively to the municipal fund, and in any cantonment where there is a cantonment fund to such fund.

Power of
Magistrate
to decide
disputes re-
garding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or Bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or Bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or Bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.¹

The decision of any Magistrate or Bench in any case under this section shall be final.

When any such case is heard by a Bench, any difference of opinion arising between the members of such Bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of
dispute, hirer
may require
driver to
take him to
Court.

10. If, at the time any dispute mentioned in section 9 arises, any Magistrate or Bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or Bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

¹ As to recovery of fines, see the General Clauses Act, 1897 (10 of 1897), s. 25, General Acts, Vol. VI, p. 328.

THE VACCINATION ACT, 1880.

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ACT No. XIII OF 1880.¹

[APPLIES TO THE UNITED PROVINCES.]

[9th July, 1880.]

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities and Cantonments.

Preamble.

WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory, in certain municipalities and cantonments ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Vaccination Act, 1880 : and

Application.

it shall apply only to such municipalities and cantonments situate in the

Interpretation-clause.

territories administered respectively by the Lieutenant-Governors of the² North-Western Provinces and the Punjab, and the² Chief Commissioners of Oudh, the Central Provinces, British Burma,³ Assam, Ajmere and Coorg, as it may be extended to in manner hereinafter⁴ provided.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) the expression “ Municipal Commissioners ” means a body of Municipal Commissioners or a Municipal Committee constituted under the provisions of any enactment for the time being⁵ in force :

(2) “ parent ” means the father of a legitimate child and the mother of an illegitimate child :

(3) “ guardian ” includes any person who has accepted or assumed the care or custody of any child :

(4) “ unprotected child ” means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination :

(5) “ inoculation ” means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter :

¹ For Statement of Objects and Reasons, see Gazette of India, 1880, p. 80; for Report of the Select Committee, see *ibid.*, p. 205; and for Proceedings in Council, see *ibid.*, 1879, Supplement, p. 1225; *ibid.*, 1880, pp. 566 and 1204.

As to inoculation in Kumaon and Garhwal, see Act 24 of 1868, *supra*, p. 128.

² Now “ Lieutenant-Governor of the United Provinces of Agra and Oudh,” see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ For “ British Burma ” read now “ Lower Burma,” see the Burma Laws Act, 1898 (13 of 1898), s. 7, Burma Code. The Chief Commissioner is now Lieutenant-Governor of Burma.

⁴ See ss. 3 and 4.

⁵ For the law relating to municipalities in the United Provinces of Agra and Oudh, see the United Provinces Municipalities Act, 1900 (United Provinces Act 1 of 1900), *infra*, p. (?)

(Secs. 3-5.)

(6) "vaccination-circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination :

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized by the Local Government in manner hereinafter provided to perform the same operation ; and includes a " Superintendent of vaccination " :

(8) "vaccination-season" means the ¹ period from time to time fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act.

3. A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality ; and thereupon the Local Government may, if it thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Extension of
Act to municipalities.

Any inhabitant of such municipality or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like notification² effect the proposed extension.

4. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette,³ extend this Act to the whole or any part of a military cantonment.

Extension to
cantonments.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality, or, with the previous sanction of the Governor General in Council, any local area in a cantonment, from the operation of this Act.

Power to
withdraw
local area
from operation
of Act.

¹ For notification fixing the season for all Municipalities and Cantonments in the plains of the United Provinces, see North-Western Provinces and Oudh Gazette, 1891, Pt. I, p. 456.

For those in the hills, see *ibid.*, p. 545.

² For list of Municipalities to which the Act has been extended, see those noted on pp. 68 to 79 of list 4 of the United Provinces list of Local Rules and Orders, Ed. 1904, Vol. I.

³ For list of Cantonments to which the Act has been extended, see those noted on pp. 79 to 81 of list 4 of the United Provinces list of Local Rules and Orders, Ed. 1904, Vol. I.

**Prohibition
of inocula-
tion.**

**Inoculated
persons not
to enter,
without cer-
tificate, local
area subject
to Act.**

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

**Vaccination-
circles :**

7. Every local area to which this Act applies shall be a vaccination-circle, or shall in manner hereinafter provided be divided into a number of such circles ;

Vaccinators :

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle ; and

**Superintend-
ent of vaccin-
ation.**

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

**Private
vaccinators.**

8. The Local Government may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

**Unprotected
children to be
vaccinated.**

9. When any unprotected child, having attained the age of six months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

**Vaccinator
to vaccinate
children, or
deliver certi-
ficates of
postponement.**

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

**Inspection
after vaccin-
ation.**

10. The parent or guardian of every child which has been vaccinated under section 9 shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator ; and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

(Secs. 11-17.)

11. When it is ascertained at the time of inspecting a child under section 10 that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

Procedure when vaccination is successful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided.

Procedure when vaccination is unsuccessful.

13. A certificate granted under section 9 showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator;

Procedure when child is unfit for vaccination.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section 9 shall be renewed.

Renewal of postponement certificates.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Certificate of insusceptibility of successful vaccination.

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act :

What lymph to be used.

Provided that,—

1st, if animal-lymph is so prescribed, and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and,

2nd, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act :

No fee to be charged except by private vaccinator. Provision.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether

Duties of Superintendent of vaccination.

all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated ; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Notice to parent or guardian neglecting to comply with Act.

Order by Magistrate when notice not complied with.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the district, or such Magistrate as the Local Government or the Magistrate of the district may from time to time appoint in this behalf ; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section 22.

Magistrates to be non-official Natives.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Power to make rules for municipalities.

19. When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which under the law for the time being in force the Commissioners make¹ rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall, when confirmed by the Local Government and published in the official Gazette, have the force of law :

Provided that the Local Government may at any time rescind or modify any such rule.

Power to make rules for cantonments.

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, subject to the control of the Governor General in Council, make such rules.²

¹ For the law relating to municipalities in the United Provinces of Agra and Oudh, see the United Provinces Municipalities Act, 1900 (United Provinces Act I of 1900), *infra*, p. 667.

² For rules made for Cantonments in the United Provinces, see pp. 89 and 90 of list 4 of the United Provinces List of Local Rules and Orders, Ed. 1904, Vol. I.

(Sec. 21.)

21. The rules to be made for any local area under sections 19 or 20 may among other matters, provide for —

What rules
under sections
19 and 20
may provide
for.

- (a) the division of such local area into circles for the performance of vaccination ;
- (b) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station ;
- (c) the qualifications to be required of public vaccinators and Superintendents of vaccination ;
- (d) the authority with which their appointment, suspension and dismissal shall rest ;
- (e) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles ;
- (f) the distinguishing mark or badge to be worn by them ;
- (g) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties ;
- (h) the facilities to be afforded to people for procuring the vaccination of their children at their own houses ;
- (i) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination ;
- (j) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph ;
- (k) the fee to be paid for vaccination with animal-lymph under section 15 ;
- (l) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child ;
- (m) the preparation and keeping of registers showing—
 - the names of children born in such local area on or after the date of the application of this Act ;
 - the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls ;
 - the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month ;

the result of each vaccination or its postponement, and the delivery of certificates, if any ;

(n) the assistance to be given by the Municipal Commissioners and Municipal servants in the preparation of these registers, and in other matters ; and

(o) the preparation of vaccination-reports and returns.

Punishment
of offences.

22. Whoever commits any of the under-mentioned offences (that is to say) :—

(a) violates the provisions of section 6,

(b) neglects without just excuse to obey an order made under section 18,

(c) breaks any of the rules made under section 19 or 20, or

(d) neglects without just cause to obey an order made under section 18 after having been previously convicted of so neglecting to obey a similar order made in respect of the same child, shall be punished as follows (that is to say) :—

in the case of the offence mentioned in clause (a), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both ;

in the case of the offences mentioned in clauses (b) and (c), with fine which may extend to fifty rupees ; and

in the case of the offence mentioned in clause (d), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Municipal
funds to re-
ceive fines
and meet
expenditure.

23. The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act in any municipality shall respectively be credited to and paid from the municipal fund.

ACT No. XIV OF 1881.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[11th March, 1881.]

An Act to amend Bengal Regulation VII of 1828.²

Preamble.

WHEREAS it is expedient to amend Bengal Regulation VII of 1828 (*for amending the Provisions of Regulation XV of 1795, and for defining the Authority of the Raja of Benares in the Mahals therein referred to*) in manner hereinafter appearing ;

¹ For Statement of Objects and Reasons, see Gazette of India, 1879, Pt. V, p. 768 ; for Proceedings in Council, see *ibid*, Supplement, p. 596 ; and *ibid*, 1881, p. 403.

² *Supra*, p. 62.

(Secs. 1-10.)

It is hereby enacted as follows :—

1. This Act may be called the Benares Family Domains Act, 1881 :

Short title.

And it shall come into force on such day¹ as the 'Lieutenant-Governor of the North-Western Provinces may, by notification in the official Gazette, appoint in this behalf.

Commence-
ment of Act.

2. [*Repeal of parts of Bengal Regulation VII of 1828.*] *Rep. Act XII of 1891.*

3. In the same Regulation, for section 3 the following shall be substituted, namely :—

New section
substituted
for section 3
of Regulation
VII of 1828.

[*Supra*, p. 63.]

4. In the same Regulation, section 7, for the last twenty-two words the following shall be substituted, namely :—

Amendment
of section 7.

[*Supra*, p. 66.]

5. In the same Regulation, section 9, for the words " the Regulations at present in force within the province of Benares " the words " the enactments for the time being in force in the 'North-Western Provinces " shall be substituted, and after the word " applicable " the words " and the Local Government, with the concurrence of the Maharaja, may direct " shall be inserted.

Amendment
of section 9.

6. To section 10 of the same Regulation the following clause shall be added, namely :—

Clause added
to section 10.

[*Supra*, p. 67.]

7. In the same Regulation, section 11, for the words and figures " Regulation XI, 1822 ", the words " the enactments for the time being in force in the 'North-Western Provinces " shall be substituted.

Amendment
of section 11.

8. In the same Regulation, section 12, for the words " Boards of Revenue " the words " Commissioners of divisions and the Board of Revenue " shall be substituted ;

Amendment
of section 12.

and for the words " towards the Board " the words " towards the Commissioner " shall be substituted.

9. In the same Regulation, section 13, for the words " Governor General in Council " the words " Board of Revenue " shall be substituted.

Amendment
of section 13.

10. In the same Regulation, section 16, for the words " a Native Commissioner shall be maintained by the Raja in each of the Parganas referred to

Amendment
of, and addi-

¹ The 24th September, 1881, see North-Western Provinces and Oudh Gazette, 1881, Pt. I, p. 424.

² Now " the Lieutenant-Governor of the United Provinces of Agra and Oudh," see Proclamation No. 996-P., dated the 22nd March 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

³ Now the Province of Agra, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

tion to, sec- in Regulation XV, 1795, " the following shall be substituted, namely :— " a
tion 16. Native Commissioner, or two or three Native Commissioners, as the said
Lieutenant-Governor may, from time to time, direct, shall be maintained by
the Maharaja ".

And to the same section the following shall be added, namely :—

[*Supra*, p. 68.]

Amendment of section 21. 11. In the same Regulation, section 21, for the words and figures
" contained in Regulation XXIII, 1814 " , to the end of the section, the
following shall be substituted, namely :— " prescribed by the said Lieutenant-
Governor under section 22 of this Regulation. "

Sections sub- 12. For sections 22 to 26, both inclusive, of the same Regulation, the
stituted for sections 22 following sections shall be substituted, that is to say :—
to 26.

[*Supra*, pp. 69 & 70.]

Validation of past or- 13. All orders heretofore passed by the Governor General in Council, or
ders, &c. the ¹Lieutenant-Governor of the North-Western Provinces, or any other
authority, regarding revisions of settlement or other matters connected with
the revenue administration of the tracts of territory mentioned in the preamble
to ²Bengal Regulation VII of 1828 shall be deemed to have been passed in
accordance with law ; and no order or decision purporting to have been passed
by any civil or revenue authority under the provisions of that Regulation shall
be called in question in any Court.

14. [*Repeal of parts of Acts XIV and XV of 1874.*] *Rep. Act XII of 1891.*

Clause added to section 8 of Act XV of 1874. 15. In the Laws Local Extent Act, 1874, ³ section 8, after clause (j) XV of 1874.
the following shall be inserted, namely :—

" (j) extend to Pargana Bhadohi or Pargana Kera Mangror in the Mir-
zapur District, or to Pargana Kaswa Raja in the Benares District,
any law not now in force therein ; "

THE INDIAN EASEMENTS ACT, 1882.

C O N T E N T S.

PREAMBLE.

PRELIMINARY.

SECTIONS.

1. Short title.
- Local extent.

¹ Now Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* Proclama-
tion No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and
the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

² *Supra*, p. 62.

³ General Acts, Vol. II.

SECTIONS.

Commencement.

2. Savings.

3. Repeal of parts of the Indian Limitation Act, 1877.

CHAPTER I.

OF EASEMENTS GENERALLY.

4. "Easement" defined.

Dominant and servient heritages and owners.

5. Continuous and discontinuous, apparent and non-apparent, easements.

6. Easement for limited time or on condition.

7. Easements restrictive of certain rights.

(a) Exclusive right to enjoy.

(b) Rights to advantages arising from situation.

CHAPTER II.

THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

8. Who may impose easements.

9. Servient owners.

10. Lessor and mortgagor.

11. Lessee.

12. Who may acquire easements.

13. Easements of necessity and *quasi* easements.

14. Direction of way of necessity.

15. Acquisition by prescription.

16. Exclusion in favour of reversioner of servient heritage.

17. Rights which cannot be acquired by prescription.

18. Customary easements.

19. Transfer of dominant heritage passes easement.

CHAPTER III.

THE INCIDENTS OF EASEMENTS.

20. Rules controlled by contract or title.

Incidents of customary easements.

21. Bar to use unconnected with enjoyment.

22. Exercise of easement.

Confinement of exercise of easement.

23. Right to alter mode of enjoyment.

24. Right to do acts to secure enjoyment.

Accessory rights.

25. Liability for expenses necessary for preservation of easement.

26. Liability for damage from want of repair.

27. Servient owner not bound to do anything.

28. Extent of easement.

Easement of necessity.

Other Easements—

(a) right of way ;

(b) right to light or air acquired by grant ;

SECTIONS.

- (c) prescriptive right to light or air ;
 - (d) prescriptive right to pollute air or water ;
 - (e) other prescriptive rights.
- 29. Increase of easement.
 - 30. Partition of dominant heritage.
 - 31. Obstruction in case of excessive user.

CHAPTER IV.**THE DISTURBANCE OF EASEMENTS.**

- 32. Right to enjoyment without disturbance.
- 33. Suit for disturbance of easement.
- 34. When cause of action arises for removal of support.
- 35. Injunction to restrain disturbance.
- 36. Abatement of obstruction of easement.

CHAPTER V.**THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.**

- 37. Extinction by dissolution of right of servient owner.
- 38. Extinction by release.
- 39. Extinction by revocation.
- 40. Extinction on expiration of limited period or happening of dissolving condition.
- 41. Extinction on termination of necessity.
- 42. Extinction of useless easement.
- 43. Extinction by permanent change in dominant heritage.
- 44. Extinction on permanent alteration of servient heritage by superior force.
- 45. Extinction by destruction of either heritage.
- 46. Extinction by unity of ownership.
- 47. Extinction by non-enjoyment.
- 48. Extinction of accessory rights.
- 49. Suspension of easement.
- 50. Servient owner not entitled to require continuance.
Compensation for damage caused by extinguishment or suspension.
- 51. Revival of easements.

CHAPTER VI.**LICENSES.**

- 52. "License" defined.
- 53. Who may grant license.
- 54. Grant may be express or implied.
- 55. Accessory licenses annexed by law.
- 56. License when transferable.
- 57. Grantor's duty to disclose defects.
- 58. Grantor's duty not to render property unsafe.

(Preliminary. Secs. 1-3.)

SECTIONS.

59. Grantor's transferee not bound by license.
60. License when revocable.
61. Revocation express or implied.
62. License when deemed revoked.
63. Licensee's rights on revocation.
64. Licensee's rights on eviction.

ACT No. V of 1882.¹

[APPLIES TO THE UNITED PROVINCES.]

[17th February, 1882.]

An Act to define and amend the Law relating to Easements and Licenses.

WHEREAS it is expedient to define and amend the law relating to ease- Preamble.
ments and licenses ; It is hereby enacted as follows :—

PRELIMINARY.

1. This Act may be called the Indian Easements Act, 1882.

Short title.

It extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg²;

Local extent.

and it shall come into force on the first day of July, 1882.

Commence-
ment.
Savings.

2. Nothing herein contained shall be deemed to affect any law not hereby expressly repealed ; or to derogate from—

(a) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation ;

(b) any customary or other right (not being a license) in or over immoveable property which the Government, the public or any person may possess irrespective of other immoveable property ; or

(c) any right acquired, or arising out of a relation created, before this Act comes into force.

XV of 1877.

3. Sections 26 and 27 of the Indian Limitation Act, 1877,³ and the definition of "easement" contained in that Act, are repealed in the territories to which this Act extends. All references in any Act or Regulation to the

Repeal of
parts of the
Indian Limit-
ation Act,
1877.

¹ For Statement of Objects and Reasons, see *Gazette of India*, 1880, Pt. V, p. 494; for Report of the Select Committee, see *ibid.*, Pt. V, p. 1021; and for Proceedings in Council, see *ibid.*, 1881, Supplement pp. 687 and 766; and *ibid.*, 1882, Supplement, p. 172.

² Act 5 of 1882 was extended to the United Provinces of Agra and Oudh by Act 8 of 1891, *infra*, p. 411.

³ See Act 15 of 1877, as modified up to the 31st December, 1900.

(Chapter I.—Of Easements generally.—Sec. 4.)

said sections, or to sections 27 and 28 of Act No. IX of 1871,¹ shall, in such territories, be read as made to sections 15 and 16 of this Act.

CHAPTER I.

OF EASEMENTS GENERALLY.

"Easement"
defined.

4. An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

Dominant
and servient
heritages and
owners.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner ; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner.

Explanation.—In the first and second clauses of this section, the expression "land" includes also things permanently attached to the earth: the expression "beneficial enjoyment" includes also possible convenience, remote advantage, and even a mere amenity ; and the expression "to do something" includes removal and appropriation by the dominant owner, for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

Illustrations.

(a) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house. This is an easement.

(b) A, as the owner of a certain house, has the right to go on his neighbour B's land, and to take water for the purposes of his household out of a spring therein. This is an easement.

(c) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(d) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field, or to take, for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water or fish out of C's tank or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(e) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(f) A is bound to cleanse a watercourse running through this land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

¹ Act 9 of 1871 was repealed by Act 15 of 1877.

(Chapter I.—Of Easements generally. Secs. 5-7.)

5. Easements are either continuous or discontinuous, apparent or non-apparent.

Continuous and discontinuous, apparent and non-apparent, easements.

A continuous easement is one whose enjoyment is, or may be, continual without the act of man.

A discontinuous easement is one that needs the act of man* for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which, upon careful inspection by a competent person, would be visible to him.

A non-apparent easement is one that has no such sign.

Illustrations.

(a) A right annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(b) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(c) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(d) A right annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

6. An easement may be permanent, or for a term of years or other limited period, or subject to periodical interruption, or exercisable only at a certain place, or at certain times, or between certain hours, or for a particular purpose, or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Easement for limited time or on condition.

7. Easements are restrictions of one or other of the following rights (namely) :—

Easements restrictive of certain rights. Exclusive right to enjoy.

(a) The exclusive right of every owner of immoveable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto.

(b) The right of every owner of immoveable property (subject to any law for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation.

Rights to advantages arising from situation.

Illustrations of the Rights above referred to.

(a) The exclusive right of every owner of land in a town to build on such land, subject to any municipal law for the time being in force.

(b) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(c) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(Chapter II.—The Imposition, Acquisition and Transfer of Easements.
Sec. 8.)

(d) The right of every owner of land to so much light and air as pass vertically thereto.

(e) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent and adjacent soil of another person.

Explanation.—Land is in its natural condition when it is not excavated and not subjected to artificial pressure; and the “subjacent and adjacent soil” mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(f) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(g) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all the water on its surface which does not pass in a defined channel.

(h) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature; the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(i) The right of every owner of upper land that water naturally rising in, or falling on such land, and not passing in defined channels, shall be allowed by the owner of adjacent lower land to run naturally thereto.

(j) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep; and the right of every such owner to use and consume the water for irrigating such land and for the purposes of any manufactory situate thereon: Provided that he does not thereby cause material injury to other like owners.

Explanation.—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural or known course.

CHAPTER II.

THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

8. An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed.

Who may
impose ease-
ments.

Illustrations.

(a) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

*(Chapter II.—The Imposition, Acquisition and Transfer of Easements.
Secs. 9-12.)*

(b) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(c) A, B and C are co-owners of certain land. A cannot, without the consent of B and C, impose an easement on the land or on any part thereof.

(d) A and B are lessees of the same lessor, A of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

9. Subject to the provisions of section 8, a servient owner may impose on the servient heritage any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility.

Servient owners.

Illustrations.

(a) A has, in respect of his mill, a right to the uninterrupted flow thereto from sunrise to noon of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: Provided that A's supply is not thereby diminished.

(b) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way: Provided that A's right of way is not thereby obstructed.

10. Subject to the provisions of section 8, a lessor may impose, on the property leased, any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

Lessor and mortgagor.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

11. No lessee or other person having a derivative interest may impose on the property held by him as such an easement to take effect after the expiration of his own interest, or in derogation of the right of the lessor or the superior proprietor.

Lessee.

12. An easement may be acquired by the owner of the immoveable property for the beneficial enjoyment of which the right is created, or on his behalf, by any person in possession of the same.

Who may acquire easements.

One of two or more co-owners of immoveable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

(Chapter 11.—The Imposition, Acquisition and Transfer of Easements.

Sec. 13.)

No lessee of immoveable property can acquire, for the beneficial enjoyment of other immoveable property of his own, an easement in or over the property comprised in his lease.

Easements of necessity and quasi easements.

13. Where one person transfers or bequeaths immoveable property to another,—

- (a) if an easement in other immoveable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement; or
- (b) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement;
- (c) if an easement in the subject of the transfer or bequest is necessary for enjoying other immoveable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement; or
- (d) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons,—

- (e) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement, or
- (f) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (a), (c) and (e), are called easements of necessity.

Where immoveable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

*(Chapter II.—The Imposition, Acquisition and Transfer of Easements.
Sec. 13.)*

Illustrations.

(a) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(b) A, the owner of two fields, sells one to B, and retains the other. The field retained was, at the date of the sale, used for agricultural purposes only, and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(c) A sells B a house with windows overlooking A's land, which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(d) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(e) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(f) A is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light, and B cannot build on the land so as to obstruct such light.

(g) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(h) A, the owner of two adjoining houses, Y and Z, sells Y to B, and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Y as it was enjoyed when the sale took effect, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z as it was enjoyed when the sale took effect.

(i) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(j) A, the owner of two adjoining buildings, sells one to B and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(k) A grants lands to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

(Chapter II.—The Imposition, Acquisition and Transfer of Easements.
Secs. 14-15.)

(Z) Under the Land Acquisition Act, 1870,¹ a Railway Company compulsorily acquires a portion of B's land for the purpose of making a siding. The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding. X of 1870.

(38) Owing to the partition of joint property, A becomes the owner of an upper room in a building, and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

(39) A lets a house and grounds to B for a particular business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

Direction
of way of
necessity.

14. When ²[a right] to a way of necessity is created under section 13, the transferor, the legal representative of the testator, or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way; but it must be reasonably convenient for the dominant owner.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

Acquisition
by prescrip-
tion.

15. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years,

and where support from one person's land or things affixed thereto has been peaceably received by another person's land subjected to artificial pressure or by things affixed thereto, as an easement, without interruption, and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

Explanation I.—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

¹ See now the Land Acquisition Act, 1894 (1 of 1894), General Acts, Vol. VI.

² The words "a right" in s. 14 were substituted for the word "right" by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

(Chapter II.—*The Imposition, Acquisition and Transfer of Easements.*
Sec. 16.)

Explanation II.—Nothing is an interruption within the meaning of this section unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Explanation III.—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

Explanation IV.—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to Government, this section shall be read as if, for the words “twenty years” the words “sixty years” were substituted.

Illustrations. .

(a) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January, 1862, to 1st January, 1882. The plaintiff is entitled to judgment.

(b) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed “as an easement” for twenty years.

(c) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed “as of right” for twenty years.

16. Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Exclusion in favour of reversioner of servient heritage.

*(Chapter II.—The Imposition, Acquisition and Transfer of Easements.
Secs. 17-19.)*

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C had a life-interest in the land; that on C's death B became entitled to the land; and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Rights which
cannot be
acquired by
prescription.

17. Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights.

None of the following rights can be so acquired :—

- (a) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed ;
- (b) a right to the free passage of light or air to an open space of ground ;
- (c) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise ;
- (d) a right to underground water not passing in a defined channel.

Customary
easements.

18. An easement may be acquired in virtue of a local custom. Such easements are called customary easements.

Illustrations.

(a) By the custom of a certain village every cultivator of village land is entitled, as such, to graze his cattle on the common pasture. A, having become the tenant of a plot of uncultivated land in the village, breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(b) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

Transfer of
dominant
heritage pass-
es easement.

19. Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place.

Illustration.

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

CHAPTER III.

THE INCIDENTS OF EASEMENTS.

20. The rules contained in this chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument or decree, if any, by which the easement referred to was imposed.

Rules controlled by contract or title.

And when any incident of any customary easement is inconsistent with such rules, nothing in this chapter shall affect such incident.

Incidents of customary easements.

21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage.

Bar to use unconnected with enjoyment.

Illustrations.

(a) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y A has another farm, Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(b) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house, the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and, when the exercise of an easement can without detriment to the dominant owner be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined.

Exercise of easement. Confinement of exercise of easement.

Illustrations.

(a) A has a right of way over B's field. A must enter the way at either end and not at any intermediate point.

(b) A has a right annexed to his house to cut thatching-grass in B's swamp. A, when exercising his easement, must cut the grass so that the plants may not be destroyed.

23. Subject to the provisions of section 22, the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage.

Right to alter mode of enjoyment.

Exception.—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

*(Chapter III.—The Incidents of Easements. Sec. 24.)**Illustrations.*

(a) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(b) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(c) A, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse-liquor produced by making in the mill paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill paper by a new process from bamboos, provided that he does not substantially increase the amount, or injuriously change the nature, of the pollution.

(d) A, a riparian owner, acquires, as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

Right to do
acts to secure
enjoyment.

24. The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement¹; but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Accessory
rights.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

Illustrations.

(a) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(b) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(c) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(d) A, as owner of a certain field, has a right of way over B's land. B renders the way impassable. A may deviate from the way and pass over the adjoining land of B, provided that the deviation is reasonable.

(e) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(f) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

¹ But see s. 36, *infra*, p. 272, as to abatement of obstruction of easement.

(Chapter III.—The Incidents of Easements. Secs. 25-28.)

(g) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

25. The expenses incurred in constructing works, or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

Liability for expenses necessary for preservation of easement.

26. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work.¹

Liability for damage from want of repair.

27. The servient owner is not bound to do anything for the benefit of the dominant heritage, and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement: but he must not do any act tending to restrict the easement or to render its exercise less convenient.

Servient owner not bound to do anything.

Illustrations.

(a) A, as owner of a house, has a right to lead water and send sewage through B's land. B is not bound, as servient owner, to clear the watercourse or scour the sewer.

(b) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(c) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound, as servient owner, to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(d) A, in respect of his mill, is entitled to a watercourse through B's land. B must not drive stakes so as to obstruct the watercourse.

(e) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

28. With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect:—

Extent of easements.

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed.

Easement of necessity.

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties and the purpose for which the right was imposed or acquired.

Other easements.

In the absence of evidence as to such intention and purpose—

(a) a right of way of any one kind does not include a right of way of any other kind:

Right of way.

But see s. 50, *infra*, p. 277, as to extinguishment or suspension of easement.

(Chapter III.—The Incidents of Easements. Secs. 29-30.)

Right to
light or air
acquired by
grant.

- (b) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made:

Prescriptive
right to light
or air.

- (c) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespectively of the purposes for which it has been used:

Prescriptive
right to
pollute air
or water.

- (d) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose: and

Other pre-
scriptive
rights.

- (e) the extent of every other prescriptive right and the mode of its enjoyment must be determined by the accustomed user of the right.

Increase of
easement.

29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased, and, if the dominant heritage is diminished by diluvion, the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

Illustrations.

(a) A, the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(b) A has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(c) A, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and unites it to his farm. A is not thereby entitled to take leaves to manure this field.

Partition of
dominant
heritage.

30. Where a dominant heritage is divided between two or more persons, the easement becomes annexed to each of the shares, but not so as to increase substantially the burden on the servient heritage: Provided that such annexation is consistent with the terms of the instrument, decree or revenue-proceeding (if any) under which the division was made, and, in the case of prescriptive rights, with the user during the prescriptive period.

(Chapter III.—*The Incidents of Easements. Sec. 31. Chapter IV.—The Disturbance of Easements. Secs. 32-33.*)

Illustrations.

(a) A house to which a right of way by a particular path is annexed is divided into two parts, one of which is granted to A, the other to B. Each is entitled, in respect of his part, to a right of way by the same path.

(b) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to A, the other to B. A and B are each entitled, in respect of his heritage, to draw from the well fifty buckets a day ; but the amount drawn by both must not exceed fifty buckets a day.

(c) A, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have the right to have its windows unobstructed.

31. In the case of excessive user of an easement the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage : Provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement.

Obstruction
in case of ex-
cessive user.

Illustration.

A, having a right to the free passage over B's land of light to four windows, six feet by four, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. B cannot obstruct the excessive user.

CHAPTER IV.

THE DISTURBANCE OF EASEMENTS.

32. The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person.

Right to en-
joyment
without
disturbance.

Illustration.

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land, and obstructs A in his right of way. A may sue C for compensation, not for the entry, but for the obstruction.

33. The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto : Provided that the disturbance has actually caused substantial damage to the plaintiff.

Suit for dis-
turbance of
easement.

Explanation I.—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

Explanation II.—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial

(Chapter IV.—*The Disturbance of Easements.* Secs. 34-36. Chapter V.—*The Extinction, Suspension and Revival of Easements.* Sec. 37.)

within the meaning of this section unless it falls within the first Explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

Explanation III.—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

Illustrations.

(a) A places a permanent obstruction in a path over which B, as tenant of C's house, has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(b) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about ten feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

When cause
of action
arises for re-
moval of
support.
Injunction
to restrain
disturbance.

34. The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation unless and until substantial damage¹ is actually sustained.

35. Subject to the provisions of the Specific Relief Act, 1877² sections I of 1877. 52 to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement—

(a) if the easement is actually disturbed—when compensation for such disturbance might be recovered under this chapter :

(b) if the disturbance is only threatened or intended—when the act threatened or intended must necessarily, if performed, disturb the easement.

Abatement of
obstruction of
easement.

36. Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

CHAPTER V.

THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENT.

Extinction by
dissolution of
right of ser-
vient owner.

37. When, from a cause which preceded the imposition of an easement the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

Exception.—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

¹ As to meaning of "substantial damage," see s. 33, Expl. I, *supra*, p. 271.

² General Act, Vol. III.

(Chapter V.—*The Extinction, Suspension and Revival of Easements.* Sec. 38.)

Illustrations.

(a) A transfers Sultanpur to B on condition that he does not marry C. B imposes an easement on Sultanpur. Then B marries C. B's interest in Sultanpur ends, and with it the easement is extinguished.

(b) A, in 1860, let Sultanpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultanpur then ends, and with it C's easement.

(c) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(d) A mortgages Sultanpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage-debt. The easement is not thereby extinguished.

38. An easement is extinguished when the dominant owner releases it, Extinction
by release.
expressly or impliedly, to the servient owner.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

Explanation I.—An easement is impliedly released—

- (a) where the dominant owner expressly authorizes an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement and such act is done in pursuance of such authority;
- (b) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

Explanation II.—Mere non-user of an easement is not an implied release within the meaning of this section.

Illustrations.

(a) A, B and C are co-owners of a house to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(b) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C. B then purports to release the easement. The release is ineffectual.

(c) A, having the right to discharge his eavesdroppings into B's yard, expressly authorizes B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(Chapter V.—*The Extinction, Suspension and Revival of Easements.*
Secs. 39-44.)

(d) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(e) A, having a projecting roof by means of which he enjoys an easement to discharge eavesdroppings on B's land, permanently alters the roof so as to direct the rain-water into a different channel and discharge it on C's land. The easement is impliedly released.

Extinction
by revoca-
tion.

39. An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement.

Extinction
on expiration
of limited
period or
happening of
dissolving
condition.
Extinction
on termina-
tion of neces-
sity.

40. An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled.

41. An easement of necessity is extinguished when the necessity comes to an end.

Illustration.

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

Extinction
of useless
easement.

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

Extinction
by permanent
change in
dominant
heritage.

43. Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

- (a) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used ; or
- (b) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it ; or
- (c) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

Extinction
on permanent
alteration of
servient herit-
age by super-
ior force.

44. An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement :

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage ; and the provisions of section 14 apply to such way.

(Chapter V.—*The Extinction, Suspension and Revival of Easements.*
Secs. 45-47.)

Illustrations.

(a) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(b) Access to a path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

45. An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

Extinction by
destruction
of either
heritage.

Illustration.

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

Extinction
by unity of
ownership.

Illustrations.

(a) A, as the owner of a house, has a right of way over B's field. A mortgages his house and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(b) The dominant owner acquires only part of the servient heritage: the easement is not extinguished, except in the case illustrated in section 41.

(c) The servient owner acquires the dominant heritage in connection with a third person: the easement is not extinguished.

(d) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages: the easements are not extinguished.

(e) The joint owners of the dominant heritage jointly acquire the servient heritage: the easement is extinguished.

(f) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(g) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

Extinction
by non-
enjoyment.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner:

*(Chapter V.—The Extinction, Suspension and Revival of Easements.**Secs. 48-49.)*

Provided that if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration Act, 1877,¹ a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration. III of 1877.

Where an easement can be legally enjoyed only at a certain place, or at certain times or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

- (a) where the cessation is in pursuance of a contract between the dominant and servient owners ;
- (b) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period, or
- (c) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purposes of this section, be deemed to be a single easement.

Illustration.

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

Extinction
of accessory
rights.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

Illustration.

A has an easement to draw water from B's well. As accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

Suspension
of easement.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when

¹See Act 8 of 1877 as modified up to 1st August, 1903.

(Chapter V.—*The Extinction, Suspension and Revival of Easements.*
Secs. 50-51.)

the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

50. The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

Servient owner not entitled to require continuance.

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

Compensation for damage caused by extinguishment or suspension.

Illustration.

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

51. An easement extinguished under section 45 revives (a) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion; (b) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and (c) when the destroyed heritage is a dominant building and before twenty years have expired such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage.

Revival of easements.

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

Illustration.

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

CHAPTER VI.

LICENSES.

"License"
defined.

52. Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immoveable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

Who may
grant license.

53. A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

Grant may
be express or
implied.

54. The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

Accessory
license an-
nexed by law.

55. All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

Illustration.

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

License when
transferable.

56. Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents.

Illustrations.

(a) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immoveable property of B. The right cannot be transferred.

(b) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

Grantor's
duty to dis-
close defects.

57. The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware.

Grantor's
duty not to
render prop-
erty unsafe.

58. The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee.

Grantor's
transferee
not bound by
license.

59. When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license.

(Chapter VI.—Licenses. Secs. 60-64.)

60. A license may be revoked by the grantor, unless—

- (a) it is coupled with a transfer of property and such transfer is in force :
- (b) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

License when
revocable.

61. The revocation of a license may be express or implied.

Revocation
express or
implied.

Illustrations.

(a) A, the owner of a field, grants a license to B, to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(b) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

62. A license is deemed to be revoked—

- (a) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license :
- (b) when the licensee releases it, expressly or impliedly, to the grantor or his representative :
- (c) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled :
- (d) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right :
- (e) where the licensee becomes entitled to the absolute ownership of the property affected by the license :
- (f) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable :
- (g) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist :
- (h) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee :
- (i) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist.

License when
deemed re-
voked.

63. Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

Licensee's
rights on re-
vocation.

64. Where the license has been granted for a consideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor.

Licensee's
rights on
eviction.

[This Act was introduced by the United Provinces Local and Rural Police Boards Act, 1808 (U. P. No. 2 of 1808, Chapter 1, 1808) while the Code was passing through the Press.]

THE NORTH-WESTERN PROVINCES AND OUDH LOCAL BOARDS ACT, 1883.

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23. Notification of elections, etc.

[This Act was repealed by the United Provinces Local and Rural Police Rules Act, 1906 (U. P. Act No. 19 of 1906) *supra*, p. 46, while this Code was passing through the Press.]

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56. Section 11, clause (c), Act III of 1878, amended.
57. [Repealed.]
58. New section substituted for section 14 of same.

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- 59 to 61. [Repealed.]

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ACT No. XIV OF 1883.[¹]

[APPLIES TO THE UNITED PROVINCES.]

[14th September, 1883.]

An Act to provide for the constitution of Local Boards in the North-Western Provinces and Oudh.

WHEREAS it is expedient to make better provision for the constitution of local bodies in each district in the ² North-Western Provinces and Oudh to administer the expenditure of that portion of the rates levied on land which is applicable to local purposes in that district, and of the income accruing from

¹ For Statement of Objects and Reasons, see Gazette of India, 1883, Pt. V, p. 391; for Proceedings in Council, see *ibid*, Supplement, pp. 1071 and 1583.

² Now the United Provinces of Agra and Oudh, see Proclamation. No. 986-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

[This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1906 (U. P. Act 2 of 1906), *in force* from 1906, while this Code was passing through the Press.]

certain other sources of revenue which may, from time to time, be made applicable to the like purposes; It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the North-Western Provinces and Oudh Local Boards Act, 1883. Short title.
- (2) It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh¹; and Local extent.
- (3) It shall come into force on the first day of November, 1883. Commence-
ment.
2. In this Act, unless there is something repugnant in the subject or context,— Definition.
- “prescribed” means prescribed by rules made under section 47.

Constitution of Local Boards and District Boards.

3. (1) The Local Government shall, by order in writing, for the purposes of this Act, divide each district into sub-districts. Formation of
sub-districts.
- (2) There shall be excluded from the sub-districts formed under this section such portions of the district as are for the time being included in the limits of a military cantonment or of a municipality, and, unless the Local Government otherwise directs, the portions of the district (if any) in which ² Act XX of 1856 (*an Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal*) is in force.
- (3) The Local Government may, from time to time, by order in writing vary any order made under this section.
4. There shall be established for each sub-district a local board having authority over that sub-district, and for each district a district board having authority over the entire district, except such portions thereof as are excluded from the sub-districts under section 3, sub-section (2). Establish-
ment of local
boards for
sub-districts
and of dis-
trict boards
for districts.
5. (1) The local board for a sub-district shall consist of so many elected members and so many nominated members as the Local Government may, from time to time, fix in this behalf: Constitution
of local
boards.

¹ Now the Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* Proclamation No. 936-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and Act 7 of 1902, *infra*, p. 527.

² *Supra*, p. 86.

For notification declaring that from 1st April, 1899, Districts in which Act XX of 1856 is in force shall not be excluded from sub-districts formed under the section, *see* N.-W. P. and Oudh Gazette, 1899, Pt. III, p. 77.

[This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1906 (U. P. Act 2 of 1906), *Infra*, p. 940, while this Code was passing through the Press.]

Provided that the nominated members shall not exceed in number one-fourth of the board.

(2) The elective members of a local board shall be elected in manner prescribed.

(3) The persons entitled to vote at the election shall be nominated by the Local Government or determined in such other manner as may be prescribed: Provided that the persons entitled to vote at the election of a member shall not be less than twenty-five in number.

(4) A person to be qualified for election must, at the time of his election, be an elector, and reside, or own landed property, or carry on trade or business in the sub-district.

(5) The nominated members shall be such persons as the Local Government may, subject to the rules made under section 47, from time to time, nominate in this behalf.

6. (1) The district board for a district shall, except as next hereinafter provided, consist of all persons who for the time being are members of the local boards of the sub-districts comprised in that district.

(2) The Local Government may, if it thinks fit, by notification in the official Gazette, direct that the district board for a district shall consist of so many of the elected members of each local board as it thinks fit, elected in this behalf by the local board in manner prescribed, and such of the nominated members of each local board as the Local Government may appoint in this behalf:

Provided that the nominated members of local boards so appointed by the Local Government shall not exceed in number one-fourth of the district board.

(3) The Local Government may, by notification in the official Gazette, rescind any direction issued under sub-section (2) with effect from the date on which all the persons holding office as members of the district board at the date of the notification shall, under the provisions of this Act, have vacated their offices as such members.

7. (1) The term of office of a member of a local board and of a member of a district board elected or appointed under section 6, sub-section (2), shall be fixed, from time to time, by the Local Government by¹ rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election, nomination or appointment.

¹ For notification fixing terms of office of members of Local and District Boards, see N.-W. P. and Oudh Gazette, 1884. Pt. I, p. 536.

Constitution
of district
boards.

Term of office
of members of
local boards
and of certain
district
boards.

[This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1906 (U. P. Act 2 of 1906) *infra*, p. 240, while this Code was passing through the Press.]

8. A member of a local board and a member of a district board elected or appointed as aforesaid may resign by notifying in writing his intention to do so to the Local Government; and, on the acceptance by the Local Government of such resignation, the member shall be deemed to have vacated his office as such member.

Resignation
of members of
those boards.

9. The Local Government may, from time to time, remove any member of a local board or of a district board elected or appointed as aforesaid who refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than three consecutive months to be present at the meetings of the local board, or, when he is a member of the district board, without sufficient excuse, neglects for more than six consecutive months to be present at the meetings of that board.

Removal of
members of
those boards.

10. (1) When the place of an elected member of a local board or of a member of a district board elected as aforesaid becomes vacant by the resignation or removal of the member or by his death, a new member shall be elected in manner prescribed to fill the place:

Filling of
casual vacan-
cies on those
boards.

Provided that the Local Government may, subject to the limitation of the proportion of nominated members of a local board fixed by section 5, and to the limitation of the proportion of appointed members of a district board fixed by section 6, direct in any such case that the vacancy shall be left unfilled.

(2) When the place of a nominated member of a local board or an appointed member of a district board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 47, nominate or appoint, as the case may be, a new member to fill the place.

(3) A person elected, nominated or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election, nomination or appointment.

11. Every district board shall be a body corporate by the name of the district board of its district, shall have perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, to transfer any moveable property and, with the previous approval in writing of the Commissioner of the division, any immoveable property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation
of district
board.

[This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1934 (U. P. Act 2 of 1934) (L. P. R. 1934) which this Act was passing through the Press.]

Time for
boards com-
ing into
existence.

12. The several local boards and district boards constituted under this Act shall come into existence at such time as the Local Government¹ may, by notification in the official Gazette, appoint in this behalf.

Chairmen and Vice-chairmen.

Chairman of
local board.

13. (1) Every local board shall, from time to time, elect one of its members to be chairman.

(2) The term of office of a chairman so elected shall be the residue of his term of office as a member of the board.

(3) If the chairman so elected dies, resigns or is removed from his office as a member of the board, resigns the office of chairman or becomes incapable of acting, the board shall elect another of its members to be chairman for the period during which the person so dying, resigning, removed or becoming incapable would have been entitled to continue in office, and no longer.

(4) If, when any meeting is held, the office of chairman is vacant or the chairman is absent from the meeting, the members present shall elect one of their number to be chairman of the meeting.

Chairman of
district board.

14. (1) Every district board shall, on first coming into existence and thereafter whenever the term of office of its chairman expires under this Act, take into consideration, at a special meeting convened for the purpose within the time prescribed, the appointment of a chairman, and, if the meeting is attended by not less than three-fourths of the members of the board, may, by a majority of the members present,—

(a) determine whether the chairman shall be elected, or his appointment shall be left to be made by the Local Government, and

(b) if it is determined that the chairman shall be elected, elect one of its members to be chairman; and

the Local Government may, if it approves of the person so elected, declare him to be chairman of the board.

(2) If no such meeting is held within the time prescribed, or if three-fourths of the members of the board are not present at the meeting, or, where several meetings are convened under this section, at any of those meetings, or if no such election takes place, or if the person elected is not approved of by the Local Government, the Local Government shall appoint as chairman, by name or by virtue of his office, such person as it thinks fit.

Vice-chairman
of district
board.

15. At a special meeting held under section 14, or at another special meeting held for this purpose, the district board shall elect one or two of its members to be its vice-chairman or vice-chairmen.

¹ For notification appointing the day on which these Boards shall come into existence, see N.-W. P. and Oudh Gazette, 1884, Pt. I, p. 536.

[This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1906 (U. P. Act 2 of 1906), *infra*, p. 540, while this Code was passing through the Press.]

16. (1) The term of office of an elected chairman of a district board shall be the residue of his term of office as member of the board.

Term of office of chairman and vice-chairman of district board.

(2) The term of office of an appointed chairman of a district board shall be such term, not exceeding three years, as the Local Government may, from time to time, by rule prescribe.¹

(3) The term of office of a vice-chairman of a district board shall be one year, or, when at the time of his election the residue of his term of office as member is less than one year, the residue of that term.

17. (1) A chairman of a district board may resign by notifying in writing his intention to do so to the Local Government; and, on such resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Resignation of chairman and vice-chairman of district board.

(2) A vice-chairman of a district board may resign by notifying in writing his intention to do so to the board; and, on such resignation being accepted by the board, he shall be deemed to have vacated his office.

18. The Local Government may remove any chairman or vice-chairman of a district board from his office as such chairman or vice-chairman if he refuses to act or becomes incapable of acting, or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be chairman or vice-chairman, or if he without sufficient excuse neglects for more than six consecutive months to be present at the meetings of the board.

Removal of chairman and vice-chairman of district board.

19. (1) If an elected chairman of a district board dies, resigns, is removed or becomes incapable of acting, a special meeting of the board shall be held within the period prescribed, and a new chairman shall be elected or appointed in manner provided by section 14.

Casual vacancies in office of chairman or vice-chairman of district board.

(2) If an appointed chairman of a district board dies, resigns, is removed or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) If a vice-chairman of a district board dies, resigns, is removed or becomes incapable of acting, the board shall, at a special meeting held for this purpose, select one of its members to be vice-chairman in his place.

(4) A chairman or vice-chairman elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office:

Provided that a person so elected shall go out of office on ceasing to be a member of the board.

¹ For notification fixing term of office of Chairmen of District Boards, see N.-W. P. and Oudh Gazette, 1884, Pt. I, p. 536.

(This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1906 (U. P. Act 2 of 1906), *in part*, p. 403, while this Code was passing through the Press.)

Chairman appointed by Local Government to be member of district board.

20. Notwithstanding anything in the foregoing sections, a chairman appointed by the Local Government under section 14, sub-section (2), or section 19, sub-section (1) or sub-section (2), shall, if he is not already a member of the district board, become a member thereof by virtue of such appointment and continue to be a member thereof while he holds the office of chairman.

Chairman of local board and chairman or vice-chairman of district board re-eligible. Person to preside at meeting of district board.

21. A chairman of a local board, and a chairman or vice-chairman of a district board, if otherwise qualified, shall on going out of office be again eligible for election or appointment.

22. (1) At every meeting of a district board the chairman, if present, shall preside.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, and a vice-chairman is present, such vice-chairman, or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Notification of Elections, etc.

Notification of elections, etc.

23. All elections, nominations and appointments of members of local boards and district boards, and of chairmen of district boards, and all vacancies in those offices, shall be notified in the local official Gazette.

Duties of District Boards.

Matters to be administered by district boards.

24. Every district board shall, so far as the funds at its disposal will permit, but subject to such exceptions and conditions as the Local Government may, from time to time, make and impose, provide for the control and administration of the following matters within the area subject to its authority:—

- (a) the construction, repair and maintenance of public roads and other means of communication;
- (b) the planting and preservation of trees on the sides of roads and on other public ground;
- (c) the establishment, management, maintenance and visiting of schools, hospitals, dispensaries, markets, staging-houses, inspection-houses and other public institutions, and the construction and repair of all buildings connected with these institutions;
- (d) the construction and repair of public wells, tanks and water-works, and the supply of water from them and from other sources;
- (e) the establishment and maintenance of such relief-works in time of

- famine or scarcity as may be entrusted to the charge of the board by the Local Government ;
- I of 1871. (f) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871,¹ is in force, such functions of the Local Government and the Magistrate of the district under that Act as may be transferred to the district board by the Local Government ;
- (g) the management of such public ferries as may be entrusted to its charge under section 7A of the Northern India Ferries Act, 1878,² as amended by this Act ;
- XVII of 1878. (h) the regulation of encamping grounds and, where the Sarais Act, 1867,³ is in force, of sarais and paraos, including such functions of the Magistrate of the district under that Act as the Local Government may, from time to time, direct ;
- XXII of 1867. (i) the institution, holding and management of agricultural shows and industrial exhibitions ;
- (j) the maintenance of any building or other property which is vested under this Act in the district board, or may be placed by the Local Government under the management of that board ; and
- (k) any other local works or measures likely to promote the health, comfort, convenience or interest of the public.

Duties of Local Boards and their Relations to District Boards.

25. Every local board shall, in the sub-district under its authority, be the agent of the district board, and, as such agent, shall have such authority and discharge such duties in respect of all or any of the matters specified in section 24 as the district board may, by written authority in that behalf, from time to time, confer or impose upon it.

Local board to be agent of district board.

26. The district board may, by a resolution passed by two-thirds of the members present at a meeting, either on complaint made to it or of its own motion, reverse or vary any order or other proceeding of any local board within the district :

Control of district board over local boards.

Provided that, except for reasons recorded in writing, no such resolution shall be passed until the local board has been allowed an opportunity of showing cause against the same.

Joint Committees.

27. (1) A district board may, from time to time, concur with any other

Joint committees.

¹ For Act 1 of 1871, see the revised edition, as modified up to 1st December, 1903.

² *Supra*, p. 221.

³ General Acts, Vol. I, p. 628.

[This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1903 (U. P. Act 2 of 1903), *infra*, p. 440, while this Code was passing through the Press.]

district board, or with the board of any municipality, or with a cautionment authority, or with more than one such board or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee, and in delegating to any such committee any power which might be exercised by either or any of the boards or authorities, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner of the division, if the areas under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

Ordinary and special meetings.

28. (1) A meeting of a district board or local board shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

29. (1) The quorum necessary for the transaction of business at a special meeting of a district board or local board shall, except where otherwise provided by this Act, be one-half of the whole board.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a district board or local board shall be such number or proportion of the members of the board as may, from time to time, be fixed by the rules made under this Act:

Provided that, if at any ordinary or special meeting of the board a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before and transacted at the adjourned meeting whether there is a quorum present thereat or not.

Vote of majority decisive.

30. (1) Except as otherwise provided by this Act or by any rule made under this Act, all questions coming before a meeting of a district board or local board shall be decided by a majority of the votes of the members present.

(2) In case of an equality of votes the chairman of the meeting shall have a second or casting vote.

Certain

31. The Civil Surgeon of the district, the Executive Engineer of the

[This Act was reported by the United Provinces Local and Rural Police Rates Act, 1903 (U. P. Act V of 1903), in 1903 while this Code was passing through the Legislature.]

division, and the Inspector of Schools of the circle shall be entitled to attend any meeting of a district board or local board, and to address the board on any matter affecting respectively sanitation, public works and public instruction. officers entitled to attend and speak.

32. (1) Every resolution passed by a district board or local board at a meeting shall be recorded in a book kept for the purpose, and shall be signed by the chairman of the meeting or of the next ensuing meeting. Resolutions to be recorded.

(2) A copy of every resolution passed by a local board at a meeting shall, within ten days from the date of the meeting, be forwarded to the district board.

(3) A copy of every resolution passed by a district board at a meeting shall, within ten days from the date of the meeting, be forwarded to the Magistrate of the district.

33. Every district board, and, with the previous sanction of the district board, every local board, may, from time to time, make rules consistent with this Act and with any rules made under this Act by the Local Government as to— Power to make rules as to conduct of business.

- (a) the time and place of its meetings ;
- (b) the quorum necessary for the transaction of business at ordinary meetings ;
- (c) the conduct of proceedings at meetings ;
- (d) the division of duties among the members of the board ; and
- (e) the persons by whom receipts may be granted on behalf of the board for money paid under this Act.

Officers and Servants.

34. (1) Every district board and every local board shall, from time to time, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person or persons, to be its secretary or secretaries, and may remove any person so appointed. Appointment of secretary.

(2) If a secretary appointed under this section is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the district board may, with the previous sanction of the Commissioner of the division, assign to him such pay as it thinks fit.

35. Subject to the other provisions of the Act, and to such rules as the Local Government may, from time to time, make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, every district board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary and proper for the efficient Employment of other officers and servants.

This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1908 (U. P. Act 2 of 1908), *infra*, p. 341 while this Code was passing through the Press.]

execution of its duties and of the duties of the local boards in the district, and may assign to such officers and servants such pay as it thinks fit and as may be approved by the Commissioner of the division.

Pensions and allowances of Government officials serving boards.

36. In the case of a Government official, any district board may—

- (1) if his services are wholly lent to it, contribute to his pension, gratuities and leave-allowances in accordance with the rules of the ¹ [Civil Service Regulations] for the time being in force ; and
- (2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuities and leave-allowances in such proportion as may be determined by the Government.

Pensions and allowances of servants of boards.

37. In the case of a servant not being a Government official referred to in section 36, any district board may—

- (1) grant him leave-allowances and, if his monthly pay is less than ten rupees, gratuities ; and,
- (2) if empowered in this behalf by the Local Government,—
 - (a) subscribe in his behalf for pension, gratuities and leave-allowances under the rules of the ¹ [Civil Service Regulations] for the time being in force ; or
 - (b) purchase for him from the Government or otherwise an annuity on his retirement :

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the ¹ [Civil Service Regulations] for the time being in force, the servant would be entitled if the service had been service under the Government.

District Fund.

Constitution of district fund.

38. There shall be formed for each district a fund, to be called the district fund, and there shall be placed to the credit thereof—

- (a) the balance (if any) of the allotments made for the district under section 11 of the North-Western Provinces Local Rates Act, 1878, ² or of the Oudh Local Rates Act, 1878, ³ which may be available ^{III} of 1878. for expenditure in the district on the day on which the district ^{IV} of 1878. board comes into existence ;
- (b) all sums which may, from time to time, be allotted by the Local Government to the district fund under section 11 of the North-Western

¹ The words " Civil Service Regulations " in ss. 36 and 37 were substituted for the words " Government Civil Pension and Leave Codes " by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

² *Supra*, p. 213.

³ See now the Oudh Local Rates Act, 1894 (U. P. Act 5 of 1894), *infra*, p. 617.

This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1906 (U. P. Act 2 of 1906, *infra*, p. 110) while this Code was passing through the Press.]

III of 1878.

Provinces Local Rates Act, 1878,¹ or of the Oudh Local Rates

IV of 1878.

Act, 1878,² as amended by this Act;

and, subject to such exceptions and conditions as the Local Government may, from time to time, make and impose, the following, namely :—

I of 1871.

(c) the surplus accruing in the district under section 18 of the Cattle-Trespass Act, 1871;³

XVII of 1878.

(d) the proceeds of public ferries payable into the district fund under section 7A of the Northern India Ferries Act, 1878,⁴ as amended by this Act;

(e) receipts from encamping-grounds under the regulation of the district board;

(f) the sale-proceeds of grass and of the produce of trees on the sides of roads and on other public ground under the control and administration of the district board, and of timber fallen or felled thereon;

(g) receipts from property vested in the district board;

(h) rents and profits accruing from nazul and other property placed by the Local Government under the management of the district board;

(i) other sums assigned to the district fund by the Local Government;

(j) sums contributed to the district fund by local bodies or private persons; and

(k) all other sums received by or on behalf of the district board, in the carrying out of this Act.

39. (1) The district fund shall be vested in the district board, and the balance standing at the credit of the fund shall be kept in the Government treasury of the district or in the bank to which the Government treasury business has been made over.

Vesting,
custody and
investment
of district
fund.

(2) Subject to such rules as the Governor General in Council may, from time to time, make in this behalf, the district board may, from time to time, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time, approve in this behalf, and vary such investments for others of the same nature. The income resulting from the securities and the proceeds of the sale of the same shall be credited to the district fund.

40. (1) The district fund shall be charged with the payment of the expenses incurred in auditing the accounts of the district and local boards, and

Application
of the district
fund.

¹ *Supra*, p. 213.

² See now the Oudh Local Rates Act, 1894 (U. P. Act 5 of 1894), *infra* p. 617.

³ For Act 1 of 1871, see the revised edition, as modified up to 1st December, 1903.

⁴ *Supra*, p. 221

[This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1902 (U. P. Act 2 of 1902), *supra*, p. 243, while this Code was passing through the Press.]

such portion of the cost of the Provincial Departments for education, sanitation, vaccination, medical relief and public works as may be held by the Local Government to be equitably debitable to the district board in return for services rendered to the board by those Departments.

(2) Subject to the charges specified in sub-section (1), the district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 24, 34, 35, 36 and 37 within the area subject to the authority of the district board, and, with the sanction of the Local Government, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Control.

Control of
Commissioner
and Magis-
trate over
boards and
joint com-
mittees.

41. (1) The Commissioner of the Division, or the Magistrate of the district when he is not a member of the district board, may—

- (a) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any local board, district board or joint committee, or any work in progress within those limits under the direction of any such board or committee;
 - (b) call for and inspect any document in the possession or under the control of any such board or committee having authority within those limits;
 - (c) require any such board or committee to furnish such statements, accounts, reports and copies of documents, relating to the proceedings or duties of the board or committee, as he may think fit to call for; and
 - (d) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee;
- (2) If any difference of opinion arises between officers exercising the powers conferred by sub-section (1), it shall be referred—
- (a) if it arises between two or more Magistrates in the same division, to the Commissioner; and
 - (b) if it arises between two or more Magistrates in different divisions or between two or more Commissioners, to the Local Government;
- and the decision thereon of the Commissioner or of the Local Government, as the case may be, shall be final.

Power of
Commissioner

42. (1) A Commissioner may, by order in writing, suspend within his division the execution of any resolution or order of a local board, district

[This Act was repealed by the United Provinces Local and Rural Police Rules Act, 1906 (XIV of 1906) which Code was passed by a board of six committee, and may prohibit the doing of any act which is about to be done or is being done within his division in pursuance of, or under cover of, this Act, if, in his opinion, such resolution, order or act is in excess of the powers conferred by law, or the execution of such resolution or order, or the doing of such act, is likely to lead to a serious breach of the peace or to cause serious injury or annoyance to the public or to any class or body of persons.]

to suspend
action under
this Act.

(2) When the Commissioner makes any such order, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently, or for such period as it thinks fit.

43. (1) In cases of emergency, the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a district board or local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the district board.

Extraordinary
powers of
Magistrate in
case of
emergency.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person having the custody of the balance of the district fund to pay the expense, or as much thereof as is from time to time possible, from the balance, in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

44. (1) If at any time it appears to the Local Government that any district board has made default in performing, or has inefficiently performed, any duty imposed on it by this or any other Act for the time being in force, the Local Government may, by order in writing, direct the district board to perform that duty, or to take such measures as the Local Government may think proper for the performance thereof, and may fix a time within which the duty shall be performed or the measures shall be taken.

Powers of
Local Govern-
ment in cases
of default of
district
board.

(2) If the order is not obeyed to the satisfaction of the Local Government within the time fixed, the Local Government may appoint the Magistrate of the district to execute it, and may direct that the expense of executing it shall be paid, within such time as it may fix, to the Magistrate by the district board.

(3) If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the district fund to pay the expense, or so much

This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1908 (U. P. Act 2 of 1908) *infra*, p. 940, while this Code was passing through the Press, from time to time possible, from the balance, in priority to any or all other charges against the same.

Power to supersede district board in case of incompetency, persistent default or abuse of powers.

45. (1) If a district board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare the board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) When the district board of a district is so superseded, the following consequences shall ensue :—

- (a) all members of the board and all members of the local boards of the district shall, as from the date of the order, vacate their offices as such members ;
- (b) all powers and duties of the district board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf ;
- (c) all property vested in the district board shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of supersession specified in the order, the local boards and district board shall be re-established, and the persons who vacated their offices under clause (a) shall not be deemed disqualified for nomination, appointment or election.

Liability of Members of Boards.

Liability of members for loss, waste or misapplication.

46. A person shall be liable for the loss, waste or misapplication of any money or other property belonging to the district board if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of a local board or of the district board ; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

Forms and Rules.

Power of Local Government to frame forms and make rules.

47. The Local Government may, from time to time, frame forms for any proceeding for which it considers that a form should be provided, and make rules consistent with this Act—

- (a) as to the ¹ method and time of election of elective members of local

¹ For rules, see N.-W. P. and Oudh Gazette, 1884, Pt. I, p. 506.

This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1906 (P. Act 2 of 1906, *infra*, p. 340) while this Code was passing through the Provinces, and, where a notification under section 6, sub-section (2), is in force, of elective members of ¹ district boards ;

- (b) as to the ² nomination of members of local boards under section 5 ;
- (c) as to the ³ mode of convening ordinary and special meetings, respectively, the notice to be given of such meetings, the business that may be transacted at ordinary and special meetings, respectively, and the majority by which any question which may come before a board at a meeting shall be decided ;
- (d) as to the division of duties among the members of the board ;
- (e) as to the mode of entering into and executing contracts and transfers of property on behalf of district boards, and the authority on which money may be paid from the district fund ;
- (f) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of district boards, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned ;
- (g) for the ⁴ guidance of district boards when suits or other proceedings are intended to be, or have been, instituted by or against them in Civil Courts ;
- (h) as to the office or offices through which correspondence of, and with, local boards and district boards and representations to the Local Government under this Act shall pass ;
- (i) as to the accounts to be kept, and as to the manner in which those accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge ; ^{5 6}
- (j) as to the preparation of estimates of income and expenditure, and the authority by whom, and the conditions subject to which, such estimates may be sanctioned ;
- (k) as to the returns, statements and reports to be submitted by local boards and district boards, respectively ; ⁶
- (l) as to the language of the board ;

¹ For rules as to district boards here referred to, see N.-W. P. and Oudh Gazette, 1884, Pt. I, p. 508.

² For rules, see N.-W. P. and Oudh Gazette, 1884, Pt. I, p. 508.

³ For rules, see N.-W. P. and Oudh Gazette, 1884, Pt. I, pp. 536 and 537.

⁴ For rules, see N.-W. P. and Oudh Gazette, 1892, Pt. I, p. 823.

⁵ For rules for the audit of the accounts of district boards, made under this power, see notification No. ²¹⁸⁰ 1-171, dated the 27th April, 1898, in North-Western Provinces and Oudh Gazette, 1898, Pt. I, p. 448.

⁶ For rules made under cls. (i), (k) and (n) with reference to cattle-pounds, see the United Provinces Gazette, 1903, Pt. III, p. 912.

[This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1906 (U. P. Act 2 of 1906), *infra*, p. 940 which was passed through the Provinces as to the qualifications requisite in the case of persons appointed

to offices requiring professional skill; and

- (n) generally, for the guidance of local boards, district boards and officers of Government in all matters connected with the carrying out of this Act and for settling their relations to one another^{2 3}.

Procedure for making rules.

48. The Local Government shall, before making any rules under section 47, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration, and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Publication of rules.

49. Every rule made under section 47 shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by section 48.

Supplemental Provisions.

Acquisition of land.

50. Where any land is required for the purposes of this Act, the Local Government may, at the request of the district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870;⁴ and, on payment by the district board of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the district board.

X of 1870.

Penalty on member, officer or servant being interested in contracts made with board or committee.

51. (1) If any member, officer or servant of a local board, district board or joint committee appointed under this Act is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with such board or committee, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code⁵ of 1860.

(2) A person shall not by reason of being a shareholder in, or a member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and a board or committee, but he

¹ For rules as to Education, Medical and Public Works officers, see N.-W. P. and Oudh Gazette, 1892, Pt. I, pp. 820 to 822; *ibid*, 1894, Pt. I, p. 142; *ibid*, 1902, Pt. III, p. 541.

² For rules made under cls. (i), (k) and (n) with reference to cattle-pounds, see the United Provinces Gazette, 1903, Pt. III, p. 912.

³ For general rules under this clause, see those noted on pp. 93 and 94 of list 4 of the U. P. list of Local Rules and Orders, Ed. 1904, Vol. I.

⁴ See now the Land Acquisition Act, 1894 (1 of 1894), General Acts, Vol. VI.

⁵ For Act 45 of 1860 see the revised edition, as modified up to 1st April, 1903.

[This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1906 (U. P. Act 2 of 1906), *infra*, p. 340, while this Code was passing through the Press.]

shall not take part in any proceedings of the board or committee relating to any such contract.

52. Nothing in this Act shall affect the Local Authorities Loans Act, XI of 1879, 1875¹.

Saving of Act XI of 1879.

Exceptional Provisions.

53. If the circumstances of any district or part of a district are, in the opinion of the Local Government, such that all or any of the provisions of this Act are unsuited thereto, the Local Government may, by notification in the official Gazette, except the ² district or part from the operation of those provisions; and thereupon those provisions shall not apply to the excepted district or part until again applied thereto by a like notification.

Power of Local Government to except local area from operation of Act.

54. When a sub-district is excepted, under section 53, from the provisions of this Act requiring that a certain proportion of the members of a local board shall be elected, the Local Government may itself appoint all such members.

Case of sub-district excepted from provisions regarding election.

55. When a district is excepted, under section 53, from all the provisions of this Act, a committee shall be appointed³ for the control and administration in that district of the matters mentioned in section 24, or such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, determine the manner in which the members of the committee shall be appointed and removed, define the functions and authority of the committee, and place at its disposal, subject to such control as the Local Government thinks fit, the amounts mentioned in clauses (a) and (b) of section 38, and such of the sources of income mentioned in the other clauses of that section as the Local Government thinks fit:

Administrative committee to be appointed for district wholly excepted from Act.

Provided that not less than one-half of the members of the committee shall be persons who own landed property, or reside or carry on trade or business, in the district, and are not in the service of Government.

Amendment of the North-Western Provinces Local Rates Act, 1878.

III of 1878. 56. For section 11, clause (c), of the North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely.—

Section 11, clause (c), Act III of 1878, amended.

[*Supra*, p. 216.]

57. [Sections 12, 13 and 15 of same repealed.] Rep. Act XII of 1891.

¹ General Act, Vol. III.

² For notifications excepting districts, see N.-W. P. and Oudh Gazette, 1883, Pt. I, p. 635, and *ibid.*, 1884, p. 474.

³ For rules for appointment and removal of members of District Committees in Almora, Naini Tal, Garhwal and Jhansi, see N.-W. P. and Oudh Gazette, 1892 and 1894, Pt. I, pp. 64 and 251.

[This Act was repealed by the United Provinces Local and Rural Police Rates Act, 1902 (U. P. Act 2 of 1902), *infra*, p. 640, while this Code was passing through the Press.]

New section substituted for section 14 of same.

58. For section 14 of the said North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely:—

[*Supra*, p. 217.]

Amendment of the Oudh Local Rates Act, 1878.

59. [Section 11, clause (c), Act IV of 1878 amended.] Rep. U. P. Act V of 1894.

60. [Sections 12 and 14 of same repealed.] Rep. Act XII of 1891.

61. [New section substituted for section 13 of same.] Rep. U. P. Act V of 1894.

Contracts made by, and Government Officers employed by, Committees under the North-Western Provinces and Oudh Local Rates Acts.

Contracts of local rates committees.

62. Every contract entered into, whether in its own name or in the name of the Government, by the committee appointed in a district under section 15¹ of the² North-Western Provinces Local Rates Act, 1878, or section 14³ of the Oudh Local Rates Act, 1878, may be enforced by and against the district board constituted for that district under this Act, in like manner as it might have been by and against the committee if this Act had not been passed. III of 1878. IV of 1878.

Government officers serving under committees to continue under board.

63. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 12 of this Act shall be deemed to be similarly employed by the board, and shall not be dismissed from that employment without the sanction of the Local Government.

Amendment of the Northern India Ferries Act, 1878.

New section to follow section 7 of Act XVII of 1878.

64. After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely:— XVII of 1878.

[*Supra*, p. 223.]

Amendment of sections 6 and 17 of same Act.

65. In section 6 of the same Act, after the words "section 7," and in section 17 of the same act, after the words "section 7," where they first occur, the following shall be inserted, namely:—"and section 7A."

¹ S. 15 of Act 3 of 1878 was repealed by s. 57 of this Act.

² Read now "the Agra Local Rates Act, 1878," see the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*.

³ S. 14 of Act 4 of 1878 was repealed by s. 60 of this Act, and the entire Act subsequently, by the Oudh Local Rates Act, 1894 (U. P. Act 5 of 1894), *infra*, p. 617.

ACT No. X OF 1885 ¹.

[APPLIES TO THE PROVINCE OF OUDH.

[12th June, 1885.]

An Act to amend the Oudh Estates Act, 1869².

I of 1869.

WHEREAS it is expedient to amend the Oudh Estates Act, 1869;²
It is hereby enacted as follows :—

1. Subject to the saving in section 2 of this Act, for the definition of “registered” in section 2 of the said Act there shall be deemed to have been substituted from the date of the passing of the said Act the following definition, namely :—

Amendment
of definition of
“registered”
in section 2
of Act I of
1869.

“‘registered’ means—

- (a) in the case of a will, registered according to the law for the time being in force relating to the registration of assurances, or deposited with a Registrar according to the law for the time being in force relating to the deposit of wills ; and
- (b) in the case of any other instrument, registered according to the law for the time being in force relating to the registration of assurances.”

2. Nothing in section 1 shall affect any will—

Saving of
certain wills.

- (a) declared by a judicial decision pronounced before the passing of this Act to be invalid on the ground that it was not registered in accordance with the provisions of the said Act ; or
- (b) of which the validity is at the time of the passing of this Act being questioned on that ground in a suit commenced before the twenty-third day of October, 1884.

ACT No. III OF 1886. ³

[APPLIES TO THE UNITED PROVINCES.]

[29th January, 1886.]

An Act to amend the Northern India Ferries Act, 1878.

XVII of 1878.

WHEREAS it is expedient to amend the Northern India Ferries Act, 1878 ;
It is hereby enacted as follows :—

1. (I) For section 8 the following shall be substituted, namely :—

[Supra, p. 224.]

Substitution
of new section
for section 8
and amend-
ment of sec-
tions 12 and
15.

¹ For Statement of Objects and Reasons, see Gazette of India, 1885, Pt. V, p. 531 ; and for Proceedings in Council, see *ibid*, Supplement, p. 1540, and *ibid*, Supplement, 1885, p. 1008.

² *Supra*, p. 130.

³ For Statement of Objects and Reasons, see Gazette of India, 1885, Pt. V, p. 277 ; and for proceedings in Council, see *ibid*, Supplement, p. 1257, and *ibid*, 1886, p. 224.

Short title, the Northern India Ferries Act, Amendment Act, 1886, see the Repealing and Amending Act, 1897 (5 of 1897). General Acts, Vol. VI.

Ferries. (Sec. 2.)

(2) For section 12, clause (b), the following shall be substituted, namely :—

[*Supra*, p. 225.]

(3) In the third paragraph of section 15, for the word “auction” the word “lease” shall be substituted.

Amendment
of section 13
and substitu-
tion of new
section for
section 26.

2. (1) For the first paragraph of section 13 the following shall be substituted, namely :—

[*Supra*, p. 226.]

(2) In the second proviso to the said section, after the word “boats” the words “which do not ply for hire or” shall be inserted.

(3) For section 26 the following shall be substituted, namely :—

. [*Supra*, p. 229.]

THE MIRZAPUR STONE MAHAL ACT, 1886.

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DISTRICT OF MIRZAPUR.

ACT No. V OF 1886. ¹

[APPLIES TO THE PROVINCE OF AGRA.]

[29th January, 1886.]

An Act to declare and amend the Law relating to the Stone Mahal in the District of Mirzapur in the ²North-Western Provinces.

WHEREAS it is expedient to declare and amend the Law relating to the Stone Mahal in the District of Mirzapur in the North-Western Provinces; It is hereby enacted as follows:—

Preliminary.

Short title
and com-
mencement.

1. (1) This Act may be called the Mirzapur Stone Mahal Act, 1886; and
- (2) It shall come into force on such ³day as the Local Government, by notification in the official Gazette, appoints.

Definitions.

- * * * * *
2. [*Repeal of Bengal Regulation II of 1800.*] *Rep. Act XII of 1891.*
 3. In this Act, unless there is something repugnant in the subject or context,—

- (1) “the district” means the whole of the area comprised in the district of Mirzapur as constituted at the time of the passing of this Act except the lands described in the schedule to this Act:
- (2) “Collector” means the Collector of the Mirzapur District, and includes an Assistant Collector of the first class empowered by him to perform any of the functions of the Collector under this Act:
- (3) “Commissioner” means the Commissioner of the Benares Division:
- (4) “Board” means the Board of Revenue of the ⁶North-Western Provinces:
- (5) “quarry” means to take from the surface as well as to extract from a quarry:
- (6) “transport” means to remove from one place to another within the district:

¹ For Statement of Objects and Reasons, see Gazette of India, 1885, Pt. V, p. 285; for Proceedings in Council, see *ibid.*, Supplement, pp. 1491, 1524, and *ibid.*, 1886, Supplement, p. 225.

² Now “Province of Agra,” see Proclamation No. 996P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

³ The 1st May, 1889—see North-Western Provinces and Oudh Gazette, 1889, Pt. I, p. 171.

⁴ Sub-s. (3), which was as follows, was repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI:—

“(3) The power conferred by this Act on the Local Government to make rules may be exercised at any time after the passing of this Act; but a rule so made shall not take effect until the Act comes into force.”

⁵ Now “the Province of Agra,” see Proclamation No. 996P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527, but the Board is also the Board of Revenue for the Province of Oudh, see s. 11(1) of the North-Western Provinces and Oudh Act, 1890 (20 of 1890), *infra*, p. 406.

(Rights of the Government and the Public. Secs. 4-6. Rules. Sec. 7.)

- (7) "proprietor" includes an assignee of land-revenue and any person claiming under a proprietor or exercising any of the rights of a proprietor.

Rights of the Government and the Public.

4. The Government is entitled to levy duty on all stone quarried in the district.

Right of the Government to levy duty. Prohibition of levy of duty by proprietors.

5. No proprietor of any land in any part of the district is entitled to impose any prohibition or restriction, or to demand or receive any sum by way of rent, premium, duty or price, in respect of the opening of a quarry, or the quarrying of stone, in the land, or in respect of the storing of stone at the quarry or the transport of stone over the land, or, save as may be provided by rules made under this Act, to receive from any person any compensation whatever in respect of any of the matters aforesaid.

6. (1) Subject to the rules made under this Act, any person is entitled to open a quarry, or quarry stone, in any land in any part of the district, and to store the stone at the quarry, and to transport it over any land.

Right of the public to quarry stone.

(2) A person may, so far as the rules made under this Act permit, acquire an exclusive right to open a quarry, or quarry stone, within certain local limits in any part of the district, and may retain the right so long as those rules permit.

(3) If a dispute as to the right referred to in sub-section (1), to open a quarry, or quarry stone, in any land, or as to the existence of or mode of exercising an exclusive right referred to in sub-section (2), to open a quarry or quarry stone, within certain local limits, arises between any persons, or if a dispute as to the right to store stone on, or transport stone over, any land arises between the person claiming to store or transport the stone and the proprietor of the land, it shall, on application for that purpose by either of the disputing parties to the Collector, be decided by him.

(4) A Civil Court shall not take cognizance of any such dispute or in any suit or proceeding whatever make any decree or order whereby any party to the dispute may be bound with respect to the subject-matter thereof either directly or indirectly.

Rules.

7. (1) The Local Government may, from time to time, make rules consistent with this Act to regulate within the whole or any specified part of the district all or any of the following matters:—

Power to make rules.

- (a) the quarrying of stone, and the places where stone may be quarried:

¹ For rules, see N.-W. P. and Oudh Gazette, 1889, Pt. 1, p. 172.

(Rules. Secs. 8-9.)

- (b) conflicting claims to exercise the right of opening a quarry or quarrying stone ;
- (c) the conditions on the fulfilment of which a person is to acquire an exclusive right of opening a quarry, or quarrying stone, within certain local limits, and how that right may cease to exist ;
- (d) the compensation to be paid for injury caused to crops or arable land by the quarrying, storing or transport of stone, and the authority by which the compensation is to be determined ;
- (e) the transport of stone ;
- (f) the storing of stone ;
- (g) the classification of stones, the rate or rates of duty to be paid in respect of each class of stone to the Government or to a farmer to whom the Government has leased the duties leviable thereon, and the time when, the place where and the persons by whom the duty is to be paid ;
- (h) the exemptions from, or reductions of, duty to be allowed, the conditions to attach to those exemptions or reductions, and the consequences to ensue on the breach of any of those conditions ;
- (i) the custody and disposal of stone confiscated or seized under this Act ; and,
- (j) generally, for carrying out the purposes of this Act.

(2) In making a rule under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the first during which the breach continues.

Procedure for
making rule.

8. (1) The Local Government shall, before making any rules under section 7, publish a draft of the proposed rules for the information of persons interested.

(2) The publication shall be made in such manner as in the opinion of the Local Government is sufficient.

(3) A notice shall be published with the draft specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall, before making the rules, receive and consider any objection or suggestion which is made by any person with respect to the draft before the date so specified.

Publication of
rules.

9. Every ¹ rule made under section 7 shall be published in the official Gazette in English and in such other language or languages as the Local

¹ Cf. s. 23 (5) of the General Clauses Act, 1897 (10 of 1897), General Acts, Vol. VI,

(Rules. Sec. 10. Offences. Secs. 11-14. Arrest, Seizure and Search. Sec. 15.)

Government directs, and that publication shall be conclusive proof that the rule has been made as required by section 8.

10. If a rule made under section 7, sub-section (1), clause (g), alters the rate of duty to be paid in respect of any class of stone, it shall not have effect till the expiration of one year from the date on which it is published.

Deferred operation of rules altering duty.

Offences.

11. If any person evades, or attempts to evade, or abets the evasion of, the payment of any duty payable under a rule made under section 7, sub-section (1), clause (g), he shall be punished with fine which may extend to two hundred rupees and twenty times the duty payable on the stone in respect of which the offence was committed, and the Court convicting him may further order the confiscation of the stone.

Penalties for evasion of duty.

12. The burden of proving that duty has been paid on stone in respect of which a prosecution for an offence under section 11 has been instituted shall lie on the accused person.

Burden of proof as to payment of duty.

13. A prosecution for an offence under section 11 or against a rule made under section 7 shall not be instituted after the expiration of six months from the commission of the offence.

Limitation for prosecutions.

14. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitute an offence under section 11 or against a rule made under section 7, or from being liable under that other law to any other or higher punishment or penalty than that provided by section 11 or a rule made under section 7 :

Saving of prosecutions under other laws

Provided that a person shall not be punished twice for the same offence.

Arrest, Seizure and Search.

15. (1) Any officer whom the Collector, with the previous sanction of the Commissioner, may empower in this behalf, may—

Powers of officers.

- (a) proceed, in respect of an offence under section 11 or against a rule made under section 7 which in his presence a person commits or is accused of committing, in the same manner as a Police-officer may proceed, under section 57 of the Code of Criminal Procedure, 1882,¹ in respect of a non-cognizable offence which in his presence a person commits or is accused of committing; and
- (b) seize any stone in respect of which he has reason to believe that an offence under section 11 or against a rule made under section 7 has been committed, and, if the stone is being transported, use

¹ See now the same section of the Code of Criminal Procedure, 1898 (Act 5 of 1898), as modified up to the 1st April, 1908.

(*Arrest, Seizure and Search. Sec. 16. Recovery of Duty. Sec. 17. Appeal and Revision. Sec. 18.*)

for the removal thereof to the nearest place appointed for the custody of stone seized under this Act, any animals and conveyances used in transporting it.

(2) The powers conferred by this section may be exercised as well beyond as within the limits of the district, and if in the exercise of those powers a person is arrested or stone is seized beyond those limits, then, notwithstanding anything in this Act, the person arrested shall be liable to be dealt with, and the stone seized to be disposed of, in the same manner as if he had been arrested or it had been seized within those limits.

Search-warrants.

16. (1) A Magistrate may issue his warrant for the search, after sunrise and before sunset, of any building,¹ vessel or place in which he has reason to believe that stone in respect of which an offence under section 11 or against a rule made under section 7 has been committed is kept or concealed, and for the seizure of any stone found there.

(2) The provisions of the Code of Criminal Procedure, 1882,² relating to searches under that Code shall, so far as the same are applicable, apply to searches under this section. X of 1882.

Recovery of Duty.

Recovery of duty.

17. An arrear of duty payable to the Government under a rule made under section 7, sub-section (1), clause (g), and an arrear due from a farmer of duties payable on stone, may be recovered from the person primarily liable to pay the same to the Government, or from his surety (if any), as if it were an arrear of land-revenue.³

Appeal and Revision.

Appeal and revision.

18. (1) Decisions and orders passed under this Act or any rule thereunder by an Assistant Collector, whether as Collector or otherwise, shall be appealable to the Collector of the Mirzapur District in the manner provided by the law for the time being in force in the district respecting appeals from the orders of an Assistant Collector to the Collector in matters pertaining to land-revenue.

(2) Decisions and orders passed by the Collector of the Mirzapur District under this Act or any rule thereunder shall be appealable to the Commissioner in the manner provided by the law aforesaid respecting appeals from the orders of the Collector to the Commissioner.

¹ See definition in s. 3 (56) of the General Clauses Act, 1897 (10 of 1897), General Acts, Vol. VI.

² See now Act 5 of 1898, as modified up to 1st April, 1903.

³ As to recovery of arrears of land-revenue in the United Provinces, see ss. 147 to 150 of the United Provinces Land-revenue Act, 1901 (U. P. Act 8 of 1901), *infra*, p. 862.

(Miscellaneous. Sec. 20. The Schedule.)

(3) The Board may revise any decision or order passed under this Act or any rule thereunder by an Assistant Collector, whether as Collector or otherwise, or by the Collector of the Mirzapur District, or under sub-section (2) by the Commissioner.

Miscellaneous.

19. [Saving of existing rates of duty.] *Rep. Act XII of 1891.*

20. (1) Notwithstanding anything hereinbefore contained, but subject to any rules which the Local Government may from time to time make to regulate the enjoyment of the privilege hereby conferred, the inhabitants of the tract south of the Vindhya range of hills shall be exempt from the payment of duty on stones quarried by them within the limits of that tract for their own use within those limits.

Exemption of the inhabitants of the hills.

(2) The Local Government may, from time to time, by notification in the official Gazette, define the limits¹ of the said tract for the purposes of this section.

THE SCHEDULE.

LANDS EXCLUDED FROM THE AREA COMPRISED IN THE DISTRICT OF MIRZAPUR.

(See section 3, sub-section (1).)

| Pargana or tappa. | Village. | Remarks. |
|-------------------|-----------------------------|--|
| Kantit . . . | Bajtha | These villages were transferred from the Allahabad District in 1840. |
| | Baghanra Rajman | |
| | Pali | |
| | Sumatia | |
| | Barha Khurd | |
| | Basaura | |
| | Chak Kothara | |
| | Chak Madari | |
| | Dogauli | |
| | Rasauli | |
| | Kothara | |
| Upraudh . . . | Ghunghuri | These villages were transferred from the Allahabad District in 1861 |
| | Hargarh | |
| | Nairi Katari | |
| | Darjanipur | |
| | Deohat | |
| | Mahuat | |
| | Maheshpur | |
| | Katra Lahoria Dih | |
| | Bhainsaur | |
| | Mahagarhi | |

¹ For notification defining the limits of the tract, see N.-W. P. & Oudh Gazette, 1889, Pt. I p. 171.

ACT No. XVII OF 1886.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[17th September, 1886.]

An Act to annex the Town and Fort of Jhansi and certain adjacent Territory to the Jhansi District, and for certain other purposes.

Short title
and com-
mencement.

1. (1) This Act may be called the Jhansi and Morar Act, 1886 ; and
- (2) It shall come into force on a date² to be appointed in this behalf by the Lieutenant-Governor of the North-Western Provinces³, which date is in this Act referred to as the commencement of this Act.

PART I.

Whereas since the beginning of March, 1886, the town and fort of Jhansi have been ceded to the British Government in full sovereignty by His Highness the Maharaja Scindia in exchange for the cantonment of Morar which has been ceded to His Highness in full sovereignty by the British Government ;

And whereas the town and fort of Jhansi have been declared by the Governor General in Council to be subject to the Lieutenant-Governorship of the North-Western Provinces ;

And whereas it is proposed that certain lands adjacent to the Jhansi District should be ceded to the British Government in full sovereignty by His Highness in exchange for certain other lands to be ceded to His Highness in full sovereignty by the British Government ;

And whereas it is expedient that the town and fort of Jhansi, and the lands to be ceded to the British Government, should be annexed to the Jhansi District, and that the law in force therein should be the same as the law in force in that district ;

* * * * *

¹For Statement of Objects and Reasons, see Gazette of India, 1886, p. 824; and for Proceedings in Council, see *ibid*, Supplement, pages 1192 and 1279.

²The 15th December, 1886—see North-Western Provinces and Oudh Gazette (Extraordinary), dated 14th December, 1886.

³Now the Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 2nd March, 1902, Gazette of India, 1102, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

⁴Now the Lieutenant-Governorship of the United Provinces of Agra and Oudh, see Proclamation and Act referred to in the third footnote on this page.

⁵The last paragraph of the preamble to Part I was repealed by the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 8 (2), *infra*, p. 405. That paragraph ran as follows:—

“And whereas it is also expedient that the town and fort, and the lands which may be ceded to the British Government, should, for the purposes of the Scheduled Districts Act, 1874, form part of the Jhansi District.”

It is hereby enacted as follows :—

2. The town and fort of Jhansi, and the lands which may be ceded to the British Government in accordance with the proposal referred to in the preamble to this Part, shall, in the case of the town and fort, from the commencement of this Act, and, in the case of any of the lands, from the date of the cession thereof, be deemed to be part of the Jhansi District.

Annexation
of ceded lands
to Jhansi
District.

3. All enactments which at the commencement of this Act, or at the date of the cession of any of the lands referred to in the last foregoing section, are or shall be in force in the Jhansi District and not in the town and fort of Jhansi or in those lands, shall then come into force in the town and fort or in those lands, as the case may be.

Assimilation
of law in
force in ceded
lands to law
in force in
Jhansi
District.

4. [*Ceded lands to become part of the scheduled district of Jhansi.*
Rep. Act XX of 1890, sec. 8 (2).]

5. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed in or with respect to the town and fort of Jhansi since the beginning of March, 1886, and before the commencement of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Lieutenant-Governor of the North-Western Provinces, shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

Validation of
acts done
since the
beginning of
March, 1886.

PART II.

And whereas it is expedient that decrees and orders passed by the Civil and Revenue Courts of His Highness in cases which would have been cognizable by the Civil and Revenue Courts of the Jhansi District under the Code of Civil Procedure¹ or the Jhansi Courts Act, 1867², or the North-Western Provinces Rent Act, 1881³, if the territory ceded by His Highness had been part of the Jhansi District at the time of the institution of the cases, should be capable of being executed as if they had been made by the Courts of the Jhansi District;

XIV of 1882.
XVIII of
1867.
XII of 1881.

¹ Now "Lieutenant-Governor of the United Provinces of Agra and Oudh", see Proclamation No. 196-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902) *infra*, p. 527.

² For Act 14 of 1882, see the revised edition, as modified up to 1st December, 1899.

³ Act 18 of 1867 was repealed by the N.-W. P. and Oudh Act, 1890 (29 of 1890), s. 5 (2), *infra*, p. 464.

⁴ Act 12 of 1881 is now repealed by the Agra Tenancy Act, 1901 (U. P. Act 2 of 1901), *infra*, p. 748.

And whereas the period of limitation prescribed for suits in the territories of His Highness is twelve years, and it is expedient that persons having just claims which, but for the cession of territory, they might have enforced in the Courts of His Highness, should not be debarred from enforcing those claims by reason of a shorter period of limitation being prescribed for any class of suits by the law in force in the Jhansi District ;

And whereas it is expedient that suits pending in the Courts of His Highness and left undetermined by those Courts by reason of cession of territory should be continued in the Courts of the Jhansi District ;

And whereas it is expedient to remove doubts as to the effect of the law in force in the Jhansi District with respect to registration and stamps on documents and instruments to which at the time of their execution the law of His Highness applied and the law of British India did not apply ;

It is hereby further enacted as follows :—

Execution of
decrees of
Gwalior
Courts.

6. (1) An application for the execution of a decree or order passed by a Civil or Revenue Court of His Highness in any such case as is referred to in the first clause of the preamble to this Part may, with the previous sanction of the Deputy Commissioner,¹ be made to any Court in the Jhansi District subordinate to the Court of the Commissioner² which may be specified by the Deputy Commissioner¹ in that behalf in his order giving the sanction.

(2) If in any case the Deputy Commissioner¹ is of opinion that for special reasons the sanction ought to be withheld or ought to be granted subject to conditions, he may either withhold his sanction or permit the application to be made on any conditions which in the circumstances he deems it proper to impose ; but in either of those cases he shall record the reasons in writing.

(3) The fact that an application is barred by the Indian Limitation Act, 1877,³ may be sufficient cause for withholding sanction to the making of the application, but in any case in which the holder of the decree or order has been debarred from enforcing it by reason of the cession of the town and fort of Jhansi to the British Government, and to which the Deputy Commissioner¹ sees fit to apply the provisions of that Act, the Deputy Commissioner¹ shall, in computing the period of limitation, exclude therefrom the time which has elapsed between the cession of the town and fort and the commencement of this Act. XV of 1877.

¹ Read "District Judge", see the N.-W. P. & Oudh Act, 1890 (20 of 1890), s. 7, *infra*, p. 404.

² This reference now applies to the Civil Courts established in the Jhansi District under the Bengal, N.-W. P. and Assam Civil Courts Act, 1887 (12 of 1887), see the N.-W. P. & Oudh Act, 1890 (20 of 1890), s. 7, *infra*, p. 404.

³ See the revised edition, as modified up to 31st December, 1900.

(4) Subject to revision by the ¹Commissioner of the Jhansi Division, an order of the Deputy Commissioner ² sanctioning or refusing to sanction the making of an application under this section, or imposing conditions with respect thereto, shall be final.

XV of 1877.

7. (1) Notwithstanding anything in the Indian Limitation Act, 1877,³ or in any other enactment, the Deputy Commissioner ² may, within such term, not exceeding two years from the commencement of this Act, as the Local Government may prescribe in this behalf, admit any suit of a nature cognizable by the Courts of British India, which, if there had not been a cession of territory and the suit had been instituted in a Court of His Highness having jurisdiction with respect thereto, would not be liable to be dismissed by that Court by reason of its being barred by any law of limitation.

Extension of period of limitation for certain suits.

(2) In the computation of the period of limitation for a suit referred to in sub-section (1) which the plaintiff has been debarred from instituting by reason of the cession of the town and fort of Jhansi to the British Government there shall be excluded from the period the time which has elapsed between the cession of the town and fort and the commencement of this Act.

(3) Subject to revision by the ¹Commissioner of the Jhansi Division, an order of the Deputy Commissioner ² admitting or refusing to admit a suit under sub-section (1) shall be final.

8. An original suit pending in a Court of His Highness and left undetermined by that Court by reason of cession of territory may be continued, under the law of limitation applicable to that Court, but otherwise in accordance with the law and procedure of British Indian Courts, in any Court in the Jhansi District subordinate to the Court of the Commissioner⁴ which the Deputy Commissioner⁵ may appoint in that behalf.

Continuance of pending suits.

9. The provisions of the law of British India with respect to the consequences of documents being unregistered or instruments being unstamped shall not apply to any document or instrument which may have been executed before a date to be⁶ prescribed in this behalf by the Local Government and to which the law of His Highness applied, and the law of British India did not apply, at the time of its execution.

Saving in favour of unregistered documents and unstamped instruments.

¹ Read "High Court", see the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 7, *infra*, p. 404.

² Read "District Judge", see N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 7, *infra*, p. 404.

³ See the revised edition, as modified up to 31st December, 1900.

⁴ This reference now applies to the Civil Courts established in the Jhansi District under the Bengal, N.-W. P. and Assam Civil Courts Act, 1887 (12 of 1887), see N.-W. P. and Oudh Act (20 of 1890), s. 7, *infra*, p. 404.

⁵ For date so prescribed, see N.-W. P. and Oudh Gazette, Extraordinary, dated the 15th December, 1890.

PART III.

AND whereas it is expedient that traders and others who were entitled immediately before the cession of the cantonment of Morar to institute certain suits in, or make applications for or with respect to the execution of certain decrees to, a Civil Court at Morar should be enabled to institute those suits in, and make those applications to, the Civil Courts at Jhansi and Agra, and at any other place from time to time appointed in this behalf by the Governor General in Council, and that the period of limitation in these cases should be extended ;

It is hereby further enacted as follows :—

Suits for
debt formerly
cognizable in
a Morar Court
to be cogniz-
able in Courts
at certain
other places.

10. (1) Any person who at the date of the cession of the cantonment of Morar was entitled to institute in a Civil Court at Morar a suit of any of the descriptions referred to in articles 50 to 54 (both inclusive) or articles 56 to 64 (both inclusive) or articles 66 to 75 (both inclusive) of the second schedule to the Indian Limitation Act, 1877, ¹ or to make to any such Court an applica- XV of 1877.
tion for or with respect to the execution of a decree in any such suit, may institute the suit or make the application in any Civil Court at Jhansi or Agra, or other place appointed in that behalf by the Governor General in Council, which would have jurisdiction in the suit to be instituted, or, as the case may be, would have had jurisdiction in the suit in which the decree to be executed was passed, if the cause of action had arisen within the local limits of its jurisdiction.

(2) Notwithstanding anything in any enactment or notification to the contrary, any Civil Court at Jhansi or Agra, or other place aforesaid, in which any such suit or application as is referred to in sub-section (1) is instituted or made shall, subject to the provisions of that sub-section, have jurisdiction to dispose of it.

(3) In computing the period of limitation for any suit or application referred to in this section, the time which has elapsed between the date of the cession of the cantonment of Morar and the commencement of this Act shall be excluded.

¹ See the Act, as modified up to the 1st December, 1900.

(Sec. 1.)

ACT No. XIX of 1886.¹

[APPLIES TO THE PROVINCE OF AGRA.]

[24th September, 1886.]

An Act to legalize the discharge by the ²Lieutenant-Governor of the North-Western Provinces of certain functions of the Governor General in Council.

WHEREAS certain functions which are by enactments in force in the ³North-Western Provinces assigned to the Governor General are in practice discharged by the Lieutenant-Governor of those Provinces, and it is expedient that these functions should continue to be so discharged, and that their discharge in the past should be legalized;

And whereas the functions assigned to the Governor General in Council by Regulation LII of 1803⁴ (*for establishing a Court of Wards in the Provinces ceded by the Nawab Vazir to the Honourable the English East India Company*), which Regulation was extended to the Conquered Provinces by section 29, Regulation VIII 1805,⁵ and to the Province of Benares by section 2, Regulation VI, 1822,⁶ were up to the twenty-second day of December, 1878, discharged by the ²Lieutenant-Governor of the North-Western Provinces, and it is expedient that their discharge by the said Lieutenant-Governor up to that date should be validated;

It is hereby enacted as follows:—

1. The sections of the enactments in the schedule to this Act which are specified in the third column of that schedule shall have effect, and, so far as may be necessary to validate anything heretofore done under them by the ²Lieutenant-Governor of the North-Western Provinces, shall be deemed to have had effect as if the ²Lieutenant-Governor of the North-Western Provinces were therein referred to instead of the Governor General in Council.

Transfer to
Lieutenant-
Governor of
certain func-
tions of
Governor
General in
Council.

¹ For Statement of Objects and Reasons, see Gazette of India, 1884, Pt. V, p. 474; and for Proceedings in Council, see *ibid*, Supplement, pp. 1169 and 1273, and *ibid*, Supplement, 1886, p. 1335.

² The Lieutenant-Governor of the North-Western Provinces is now Lieutenant-Governor of the United Provinces, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ Now the Province of Agra, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

⁴ Ben. Regs. 52 of 1803 and 6 of 1822 were repealed in the Province of Agra by the N.-W. P. Land-revenue Act, 1878 (19 of 1878). This Act has also since been repealed.

⁵ Ben. Reg. 8 of 1805 was repealed by the N.-W. P. Land-revenue Act, 1873 (19 of 1873), which has also since been repealed by the United Provinces Land-revenue Act, 1901 (U. P. Act 3 of 1901).

(Sec. 2. The Schedule.)

Validation of
exercise by
Lieutenant-
Governor of
functions of
Governor
General in
Council under
Regulation
LII of 1803.

2. Sections 3, 7, 9 and 17 of Regulation LII of 1803¹ shall be deemed to have had effect in the ²North-Western Provinces as if the words "or the ³Lieutenant-Governor of the North-Western Provinces" had been inserted in those sections after the words "Governor General in Council" wherever the latter words occur.

THE SCHEDULE.

(See section 1.)

(a) Bengal Regulations.

| Number and year. | Subject | Sections. |
|-------------------|--|----------------|
| 1 | 2 | 3 |
| 'V of 1799 . . . | To limit the interference of the Zila and City Courts of Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate. | 7 |
| 'IX of 1833 . . . | For (<i>among other matters</i>) the more extensive employment of Native agency in the Revenue Department. | 16, 17 and 25. |

(b) Act of the Governor General in Council.

| Number and year. | Subject. | Section. |
|--------------------|--|----------|
| 'XII of 1856 . . . | To amend the law respecting the employment of amins by the Civil Courts in the Presidency of Fort William. | 2 |

¹ Ben. Reg. LII of 1803 was repealed in the Province of Agra by the N.-W. P. Land-revenue Act, 1873 (19 of 1873). This Act has also since been repealed by the United Provinces Land-revenue Act, 1901 (U. P. Act 3 of 1901), *infra*, p. 825.

² Now Province of Agra, *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

³ The Lieutenant-Governor of the North-Western Provinces is now the Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

⁴ *Supra*, p. 17.

⁵ *Supra*, p. 75.

⁶ *Supra*, p. 61.

THE OUDH RENT ACT, 1886.

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ACT No. XXII OF 1886.¹

[APPLIES TO THE PROVINCE OF OUDH.]

[1st October, 1886.]

An Act to consolidate and amend the law relating to Rent in Oudh.

WHEREAS it is expedient to consolidate and amend the law relating to rent in Oudh and to other matters connected therewith; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Oudh Rent Act, 1886.
- (2) Save as provided thereby, it shall extend to the territories for the time being comprised in the Province of Oudh: and
- (3) It shall come into force on the first day of January, 1887.

Short title,
extent and
commence-
ment.

¹ For Statement of Objects and Reasons, with letter from the Government of the North-Western Provinces and Oudh, see Gazette of India, 1886, Pt. V, p. 492; and for Proceedings in Council, see *ibid.*, Supplement, pp. 225, 882 and 134.

² Sub-s. (4) was repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI. It ran as follows:—

“(4) Any power conferred by this Act on the Chief Commissioner to make rules, or to issue orders, may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.”

Repeal.

2. (1) The Oudh Rent Act, XIX of 1868, is hereby repealed ; but all notifications published and rules made under that Act shall, so far as may be, be deemed to have been published and made under this Act.

(2) The following enactments also are hereby repealed, namely :—

(a) section 40 of the ¹Oudh Civil Courts Act, XXXII of 1871 ;

(b) sections 23 and 24 of the ²Oudh Laws Act, XVIII of 1876 ; and

(c) section 1 of ³Act XIV of 1878.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “ Court ” means any judicial officer presiding in a Court of Revenue for the disposal of matters under this Act :

⁴[(1A) “ Board ” means the Board of Revenue :]

(2) “ suit ” means a suit under this Act ;

(3) “ land ” includes the ungathered produce of land, whether spontaneous or not, and whether growing in earth or in water, but shall not include land for the time being occupied by dwelling-houses or manufactories, or appurtenant thereto, so long as that land is not let to agricultural tenants :

(4) “ revenue ” means money payable to the Government on account of land : in sections 34 and 35 it means land-revenue only :

(5) “ rent ” means the money, or the portion of the produce of land, payable on account of the use or occupation of land, or on account of any right in land, or on account of the use of water for irrigation :

(6) “ proprietor ” does not include an under-proprietor ; and where there are two private rights of property, one superior and the other subordinate, in the same land, “ proprietor ” means the holder of the superior right only :

(7) “ proprietary right ” means a proprietor’s right in land :

(8) “ under-proprietor ” means any person possessing a heritable and transferable right of property in land for which he is liable to pay rent :

(9) “ under-proprietary right ” means an under-proprietor’s right in land :

¹ The rest of the Act was repealed by the Oudh Civil Courts Act, 1879 (13 of 1879), *supra*, p. 233.

² *Supra*, p. 198.

³ The Assimilation of Powers Act, *supra*, p. 219.

⁴ Cl. (1A) was inserted by the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 44 (1), *infra*, p. 408.

(Chapter I.—Preliminary. Sec. 4.)

(10) "tenant" means any person, not being an under-proprietor, who is liable to pay rent; and in the following portions of this Act, namely, sections 13, 14, 15, 17, 18, 29, 53, 54, 55, sub-sections (1) and (2), 56, 59, 60, 61, 62, 108, 126 and 138, but in no others, the expression "tenant" shall be held to include a thikadar or person to whom the collection of rents in a village or portion of a village has been leased by the landlord:

(11) "landlord" means any person to whom an under-proprietor or a tenant is liable to pay rent:

(12) "representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person, and includes the guardian of a minor and the legal curator of a lunatic or idiot:

¹[(13) "prescribed" means prescribed from time to time—

XX of 1890.

(a) before the day² on which Part II of the North-Western Provinces and Oudh Act, 1890, came into force, by the ³Chief Commissioner by rules under this Act; and

(b) after that day, by the Board by rules made under this Act with the previous sanction of the ³Chief Commissioner:]

(14) "registered" means registered under any Act for the time being in force for the registration of documents:

(15) "signed" includes marked,⁴ when the person making the mark is unable to write his name: and

(16) "value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

4. (1) Nothing in any contract made between a landlord and a tenant before or after the passing of this Act shall entitle a landlord to eject a tenant or enhance his rent otherwise than in accordance with the provisions of this Act. Restrictions on exclusion of Act by agreement.

(2) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(3) Where land not previously cultivated has been or is hereafter let by a landlord to a tenant, either after being reclaimed by or at the expense of the

¹ Cl. (13) was substituted by the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 44 (2), *infra*, p. 408.

² That is, the 1st January, 1891, *see infra*, p. 406.

³ Now the Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

⁴ *See also* definition in s. 3 (52) and s. 4 (2) of the General Clauses Act, 1897 (10 of 1897), General Acts, Vol. VI.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants. Secs. 5-6.)

landlord or for the purpose of being reclaimed by the tenant, nothing in this section shall be construed to affect the conditions of any contract relating to that land until fourteen years have elapsed from the date on which the land was first brought under cultivation.

(4) Where land has remained uncultivated during a period of seven years, it shall, for the purposes of the last foregoing sub-section, be deemed to have not been previously cultivated.

(5) This section does not apply to tenants having a right of occupancy or to sub-tenants.

CHAPTER II.

OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS, UNDER-PROPRIETORS AND TENANTS.

Right of Occupancy.

Tenants
having a
right of
occupancy.

5. Tenants who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for those lands according to the provisions of this Act, have a right of occupancy under the following rule:—

Every such tenant who, within thirty years next before the thirteenth day of February, 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession as proprietor in a village or estate shall be deemed to possess a heritable but not a transferable right of occupancy in the land which he cultivated or held in such village or estate on the twenty-fourth day of August, 1866: Provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said thirteenth day of February, 1856: Provided also that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under-proprietary right.

Nothing contained in the former part of this section shall affect the terms of any agreement in writing entered into between a landlord and tenant after the twenty-second day of July, 1868.

Saving of
power to
confer right
of occupancy.

6. Nothing in the last foregoing section shall be construed to restrict the power of a landlord to confer by registered document on any persons other than those mentioned in that section a right of occupancy in the lands which they hold or cultivate.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants. Secs. 7-7 A.)

7. If a tenant having a right of occupancy is ejected, in accordance with the provisions of section 52, from the land in which he possesses the right, he shall thereupon lose his right of occupancy in that land. Loss of right of occupancy.

¹ 7A. (1) Every proprietor or under-proprietor, whose proprietary or under-proprietory rights, as the case may be, in a mahal or in any portion thereof, whether in any share therein or in any specific area thereof, are transferred, on or after the first day of January, 1902, Ex-proprietary tenants.

either by sale in execution of a decree or order of a Civil or Revenue Court, or by voluntary alienation, otherwise than by gift or by exchange between co-sharers in the mahal,

shall become a tenant with a right of occupancy in his sir-land, and in the land which he has cultivated continuously for twelve years at the date of the transfer, and shall be entitled to hold the same at a rent which shall be four annas in the rupee less than the rate generally payable by non-occupancy tenants for land of similar quality and with similar advantages in the neighbourhood.

(2) A usufructuary mortgage shall be deemed to be a transfer within the meaning of this section.

(3) If a part only of the share of a proprietor or under-proprietor in a mahal or in any portion thereof is so transferred, such proprietor or under-proprietor shall become a tenant with a right of occupancy in so much of his sir-land, and of the land which he has cultivated continuously for twelve years at the date of the transfer, as appertains or corresponds to such part of his share.

(4) Every such tenant, and every tenant having a right of occupancy under section 25 of the ² Oudh Laws Act, 1876, shall be called an ex-proprietary tenant, and shall have all the rights and be subject to all the liabilities conferred and imposed by this Act upon occupancy-tenants.

(5) The land in which such occupancy-right has been created shall be specified, and the rent payable shall be fixed by the Collector under section 36 of the ³ North-Western Provinces and Oudh Land-revenue Act, 1901.

(6) Nothing in this section shall be deemed to limit the right of a proprietor to reserve proprietary or under-proprietory rights or of an under-proprietor to reserve under-proprietory rights in his sir at the time of making a private transfer, or to confer a right of occupancy in any land transferred

XVIII of
1876.

U. P. & O.
III of 1901.

¹ S. 7A was inserted by s. 2 of the Oudh Rent Act, 1886, Amendment Act 1901 (U. P. Act 4 of 1901), *infra*, p. 885.

² *Supra*, p. 158.

³ *Infra*, p. 825. Read now "the Agra and Oudh Land-revenue Act, 1901," see the U. P. General Clauses Act 1904 (U. P. Act 1 of 1904) s. 28(2), *infra*, p. 924.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants. Secs. 8-12.)

for any public or private purpose inconsistent with the existence of a right of cultivation therein.

Tenants' Right to Pattas.

Tenant's right to patta.

8. Every tenant is entitled to receive from his landlord a patta or memorandum of the terms of the tenancy, signed by the landlord or his authorized agent, and containing the following particulars, namely:—

- (a) the quantity of laud and, where the fields comprised in the patta have been numbered in a Government survey, the number of each field;
- (b) the term for which the tenancy is to run;
- (c) the amount of rent payable;
- (d) the instalments in which and the times at which that amount is to be paid;
- (e) any special conditions not inconsistent with the provisions of this Act; and
- (f) if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner and place of delivery.

Patta to which tenant having right of occupancy is entitled.

9. Tenants having a right of occupancy are entitled to receive pattas at rates of rent determined in accordance with the provisions of Chapter IV, Part A ¹[or Part AA], of this Act.

Patta to which tenant not having right of occupancy is entitled.

10. Tenants not having a right of occupancy are entitled to pattas for the terms and at the rates prescribed in Chapter IV, Part B, of this Act.

Landlords' Right to Counterparts.

Landlord's right to counterpart.

11. Every landlord who grants a patta is entitled to receive from the tenant a counterpart signed by or on behalf of the tenant.

Arrears of Revenue or Rent.

What to be deemed an arrear of revenue or rent.

12. Any instalment of revenue or rent which is not paid on or before the day when it becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of revenue or rent, as the case may be:

Provided that, unless the proprietor and under-proprietor have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue

¹ These words and letters were inserted by the Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act 4 of 1901), *infra*, p. 885.

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants. Secs. 13-15.)

on account of the village in which the land in respect of which the rent is payable is situate, and to be payable in the same number of instalments as the revenue; and the amount of each instalment of the rent shall bear the same proportion to the whole of the rent payable for the year as the amount of each instalment of the revenue bears to the whole of the revenue payable for the year.

Receipts.

13. (1) Every receipt for rent shall specify the year or years on account of which the rent has been paid; and any refusal to make that specification shall be held to be a withholding of a receipt. Receipts for rent.

(2) If a receipt for rent paid by an under-proprietor or tenant is withheld from him without sufficient cause, he may recover compensation from the landlord up to an amount not exceeding that of the rent paid.

Deposit of Revenue or Rent in Court without Suit.

14. (1) If a co-sharer, under-proprietor or tenant from whom any revenue or rent is due in respect of the land held or cultivated by him, tenders the full amount of that revenue or rent at the usual place of payment to the person authorised to receive it, and that person does not accept the amount and forthwith give a receipt in full therefor, the co-sharer, under-proprietor or tenant may, without any suit having been instituted against him, deposit the amount in Court to the credit of the person authorized to receive it. Power to pay into Court amount of revenue or rent due.

(2) The deposit shall, so far as regards the co-sharer, under-proprietor or tenant, and all persons claiming through or under him, operate as a payment then made to the lambardar or landlord of the amount so deposited.

15. (1) The Court shall receive the deposit on the written application of the co-sharer, under-proprietor or tenant, or his recognized agent; and on the applicant making a declaration in the form set forth in Schedule A to this Act, or as near thereto as circumstances will admit, the Court shall give him a receipt for the deposit. Procedure on making and withdrawing such payment.

XIV of 1882. (2) The declaration shall be verified in the manner prescribed for the verification of plaints by section 52 of the Code of Civil Procedure,¹ and shall be signed by the person making it.

(3) Upon receiving the deposit, the Court shall issue to the person to whose credit it has been paid a notice in the form set forth in Schedule B to this Act.

¹ For Act 14 of 1882, see the revised edition, as modified up to 1st December, 1899.

(Chapter 11.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants. Secs. 16-19.)

(4) The notice shall be served by the proper officer without the payment of any fee.

(5) If the person to whose credit the deposit has been paid, or his recognized agent, appears and applies for it, the Court shall cause it to be paid to him.

(6) The application under sub-section (5) may be on plain paper.

Limitation
for suits for
balance of
revenue or
rent.

16. Where a deposit has been made under the provisions of the two last foregoing sections, a suit shall not be brought against the depositor or his representative on account of any revenue or rent which accrued due in respect of the land last hereinbefore mentioned prior to the date of the deposit, unless the suit is instituted within six months from the date of the service of the notice mentioned in section 15.

Illegal Enforcement of Payment of Rent.

Compensa-
tion to under-
proprietor or
tenant for
illegal en-
forcement of
payment.

17. (1) If payment of rent or of any sum in excess of the rent legally claimable is illegally enforced, and any under-proprietor or tenant institutes a suit to recover compensation for the illegal enforcement of the payment, the Court may award to him compensation, not exceeding the sum of two hundred rupees, in addition to any amount for which it makes a decree in respect of the payment itself.

(2) An award of compensation under sub-section (1) shall not bar any prosecution to which the person illegally enforcing the payment may be liable under any law for the time being in force.

Abatement of Rent.

Suit for
abatement
of rent by
under-pro-
prietor or
tenant.

18. Save as provided by section 29, sub-section (4), a suit for an abatement of the rent of a holding shall not be brought by an under-proprietor or tenant except on the ground that the area of the holding has diminished, or on some ground specified in a lease, agreement or decree under which he holds :

Provided that, if the under-proprietor holds a sub-settlement in a revenue-paying estate, an abatement shall not be allowed to the under-proprietor unless a remission of revenue has been allowed on the same ground and by competent authority in the same estate.

Remission of Rent.

Remission of
rent by order
of Court.

19. (1) Notwithstanding anything in the last foregoing section, a Court, when it makes a decree for an arrear of rent, may, with the previous sanction

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants. Secs. 20-21.)

of the Deputy Commissioner, allow such remission from the rent payable by any under-proprietor or tenant as appears equitable, if the area of the land in his occupation has been materially diminished by diluvion or otherwise, or if the produce of that land has been diminished by drought, hail or other calamity beyond his control, to such an extent that the full amount of rent payable by him, cannot, in the opinion of the Court, be paid.

(2) Where a remission of rent under this section causes a material diminution of the assets of the landlord in the village in which the remission is given, the revenue-authorities shall take into consideration any claim made by the landlord for a remission of revenue.

(3) A remission shall not be allowed under this section to an under-proprietor holding a sub-settlement, or to a tenant having a right of occupancy, unless a remission of revenue has been allowed on the same ground and by competent authority in the same village.

Relinquishment of Land.

20. (1) A tenant shall continue liable for the rent of the land in his holding unless on or before the fifteenth day of March in any year he gives to the landlord or to the recognized agent of the landlord notice in writing of his desire to relinquish that land, and relinquishes it accordingly.

Relinquishment of land by tenant.

(2) If the landlord or his recognized agent refuses to receive the notice or to sign and deliver a receipt therefor, the tenant may, before the latest date prescribed for giving the notice, apply on plain paper to the tahsildar or proper officer, and written notice of the desire of the tenant to relinquish the land shall then be served on the landlord at the expense of the tenant.

(3) A tenant cannot without the consent of his landlord relinquish a part only of his holding.

(4) Nothing in this section shall entitle a tenant holding under a registered document under section 69 to relinquish his holding otherwise than in accordance with the terms of that document.

21. (1) If a tenant abandons his holding without informing his landlord and without arranging for the cultivation of the holding the landlord may, at any time after the fifteenth day of May, enter on the holding.

Abandonment of holding.

(2) Before a landlord enters on a holding under sub-section (1), he shall file a notice in the prescribed form at the office of the tahsildar for service on the tenant, stating that he has treated the holding as abandoned and is about to enter on it accordingly.

(3) When a landlord enters on a holding under sub-section (1), the tenant may institute a suit under this Act to recover possession of the holding, and

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants. Secs. 22-25.)

the Court shall, on being satisfied that the tenant did not voluntarily abandon the holding, order recovery of possession on such terms with respect to the time of delivery of possession, the payment of arrears of rent, if any, and, if injury has been caused by the wrongful act, neglect or default of any party to the proceeding, with respect also to the payment of compensation by that party, as to the Court may seem just.

Compensation for Tenants' Improvements.

Tenant's
right to com-
pensation for
improvements.

22. (1) If a tenant, or a person from whom he has inherited, has made any such improvement on his holding as is hereinafter in this Chapter mentioned, neither he nor his representative shall be ejected from the holding unless and until he or his representative, as the case may be, has received compensation for the improvement:

Provided that compensation shall not be payable for any improvement made thirty years or more before the date on which the ejection is to take effect.

(2) An improvement made by a tenant for the benefit of his holding on land belonging to the person who is entitled to receive the rent of the holding shall for the purposes of this section be deemed to have been made on the holding of the tenant.

Landlord's
consent to
tenant's im-
provement.

23. Except as provided in the next following section, a tenant shall not be entitled to claim compensation for an improvement made subsequently to the passing of this Act without the written consent of the landlord.

Reference to
Deputy
Commissioner
when consent
is refused.

24. (1) If a tenant applies for the written consent of his landlord to the making of an improvement on his holding, and the landlord omits or refuses to grant it, the tenant may apply to the Deputy Commissioner for permission to make the improvement.

(2) When an application is made to the Deputy Commissioner under subsection (1), he shall take into consideration any objections which the landlord may have to urge on either of the following grounds, namely:—

(a) that the improvement is too costly or is unsuitable to the nature of the tenant's holding, or

(b) that the landlord is himself prepared to make the improvement,

and shall then either grant the permission on such conditions as he considers fair and equitable, or refuse the application.

Registration
of outlay on
improvements.

25. (1) If either the landlord or the tenant desires the amount expended on an improvement executed with the permission of the Deputy Commissioner under the last foregoing section to be determined and registered, the Deputy

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants. Secs. 26-29.)

Commissioner shall, on application made to him for the purpose, determine the amount of the outlay, and enter it in a register kept in the prescribed form.

(2) The entry in the register shall be conclusive proof of the amount of the outlay in any subsequent proceedings respecting the cost of the improvement.

26. The word "improvement," as used in this Act. means a work by which the annual letting value of land has been, and at the time of a demand for compensation continues to be, increased, and comprises—

"Improvement" defined.

- (a) the construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage and for protection against floods; the construction of wells; the reclamation of waste land and jungle; and other works of a like nature;
- (b) the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not required for the maintenance thereof and increase durably their value.

27. In estimating the compensation to which a tenant is entitled for an improvement regard shall be had—

Principle on which compensation is to be estimated.

- (a) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;
- (b) to the condition of the improvement and the probable duration of its effects;
- (c) to the labour and capital required for the making of such an improvement;
- (d) to any reduction or remission of rent or any other advantage given by the landlord to the tenant in consideration of the improvement; and
- (e) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, to the length of time during which the tenant has had the benefit of the improvement.

28. When a Court has assessed the amount of the compensation due to a tenant, it may, if both landlord and tenant desire that the compensation assessed, instead of being paid wholly in money, shall be made wholly or partly in some other way, proceed to give judgment according to the terms agreed upon between them.

Modes of making compensation.

29. (1) A landlord may make an improvement on the holding of a tenant not having a right of occupancy with or without the consent of the tenant.

Improvement by the landlord.

(2) A landlord intending to make an improvement shall, if any part thereof is to be made on the holding of any such tenant, give notice of his intention to the tenant through the tahsildar,

(Chapter II.—Of certain Rights and Liabilities of Landlords, Under-proprietors and Tenants. Sec. 30. Chapter III.—Payment of Rent in kind. Secs. 31-32.)

(3) A landlord making an improvement on the holding of any such tenant shall be liable to compensate the tenant for any loss which he may cause to the tenant when making it.

(4) If the effect of the improvement is to impair the productive powers of the holding, the tenant shall, in addition to any compensation which may be awarded to him under sub-section (3), be entitled to such abatement of his rent as to the Court seems just.

(5) A landlord may not make an improvement on the holding of a tenant with a right of occupancy without the consent of the tenant.

Survey and Measurement.

Landlord's
right to enter
and measure
lands.

30. A landlord and his agents and surveyors may, at all reasonable times, enter upon any land comprised in his estate for the purpose of surveying and measuring the land.

CHAPTER III.

PAYMENT OF RENT IN KIND.

Division or
appraisement
of produce

31. Where rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other proceeding of a similar nature requiring the presence of both the tenant and the landlord either personally or by recognized agent, if either party neglects to be present at the proper time, or if a dispute arises between the parties regarding the division, estimate, appraisement or proceeding, either party may present an application to the Court, requesting that a proper officer be deputed to make the division, estimate or appraisement, or conduct the proceeding.

Procedure in
case of dis-
pute.

32. (1) On receiving the application, the Court shall issue a written notice to the other party to attend at a time and place specified in the notice, and shall depute an officer before whom the division, estimate or appraisement shall be made, or the proceeding conducted.

(2) The award of that officer in respect of the division, estimate, appraisement or proceeding shall be final, unless, within ¹[three months] from the date thereof, either party institutes a suit to set it aside.

¹ These words were substituted for the words "one month" by the N.-W. P. and Oudh Act, 1899 (20 of 1899), s. 45, *infra*, p. 402.

CHAPTER IV.

ENHANCEMENT AND FIXING RATES OF RENT.

Part A.—Tenants with Right of Occupancy.

33. (1) A tenant having a right of occupancy in any land shall not, in case of dispute as to the rent to be paid in respect of the land, be liable to an enhancement of the rent except in pursuance of a decree made under this Act on some one of the following grounds, namely:—

Enhancement of rent of tenant with right of occupancy.

1st ground.—That the rate of rent paid by him is below the rate of rent usually paid, by the same class of tenants having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding that rate.

2nd ground.—That the rate of rent paid by him is more than twelve-and-a-half per cent. below the rate of rent usually paid, by tenants of the same class not having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding that rate, less twelve-and-a-half per cent.

3rd ground.—That the quantity of land held by him exceeds the quantity for which he has previously paid rent.

Rule.—In this case the Court shall decree rent for the land in excess, at rates to be fixed by the first or the second of the rules contained in this section, as the case may be.

(2) Nothing in sub-section (1) shall affect the terms of any agreement in writing entered into between a landlord and tenant after the twenty-second day of July, 1868.

34. After a decision has been passed in accordance with the last foregoing section, a suit shall not lie for re-enhancement of the rent until the expiration of five years from the date of the decision, except on the 3rd ground mentioned in that section, or, in the case referred to in the next following section, until, by re-assessment within the term of five years, the revenue of the land has been increased.

Term for re-enhancement after decision fixing rent under section 33.

35. If, on a re-assessment of the revenue, the rent of the tenant cannot be enhanced under section 33 by reason of the absence of the grounds therein mentioned, the landlord may institute a suit to enhance the rent to a sum not exceeding double the average amount of the revenue imposed at the re-assessment

Enhancement on re-assessment of revenue.

(Chapter IV.—*Enhancement and fixing Rates of Rent.* Secs. 35A-36.)

upon land of a similar description and with similar advantages held by tenants of the same class in the same village.

¹*Part AA.—Ex-proprietary Tenants.*

Enhancement
of rent.

35A. When the rent of an ex-proprietary tenant has been fixed by an order under section 25 of the ²Oudh Laws Act, 1876, or section 36 or section 87 of the ³North-Western Provinces and Oudh Land-revenue Act, 1901, the landholder may, when, and not before,—

XVIII of
1876.
U. P. & O.
III of 1901.

(a) ten years shall have expired from the date of the order so fixing the rent, or

(b) there has been a revision of settlement,

sue for enhancement of the rent on the following ground and no other, *viz.*, that the rate of the rent paid is more than four annas in the rupee below the prevailing rate paid by non-occupancy tenants for land of similar quality and with similar advantages in the neighbourhood.

Enhancement
or abatement
in case of
alluvion,
diluvion, etc.

35B. (1) Notwithstanding anything contained in section 35A, the landholder may, at any time, sue for enhancement of the rent of an ex-proprietary tenant on one or both of the following grounds and no others, namely,—

(a) that the area of the tenant's holding has been increased by alluvion or otherwise; or

(b) that the productive powers of the land held by the tenant have been increased otherwise than by the agency or at the expense of the tenant.

(2) An ex-proprietary tenant may sue at any time for abatement of the rent paid by him on one or both of the following grounds and no others, namely,—

(c) that the area of the land held by him has been diminished by diluvion or otherwise; or

(d) that the productive powers of the land have been diminished by any cause beyond his control.

Part B.—Other Tenants.

Tenant in
occupation
at passing of

36. Every tenant, not being a tenant with a right of occupancy or a sub-tenant, shall be entitled to retain possession of the holding occupied by

¹ Part AA was inserted by the Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act 4 of 1901), s. 3, *infra*, p. 885.

² *Supra*, p. 198.

³ *Infra*, p. 825. Read now United Provinces Land-revenue Act, 1901, see the U. P. General Clauses Act, 1904 (U. P. Act 1 of 1904), *infra*, p. 924.

(Chapter IV.—Enhancement and fixing Rates of Rent. Secs. 37-40.)

him at the time of the passing of this Act, at the rent then payable by him, for a period of seven years from the date of the last change in his rent or of the last alteration in the area of the holding, or, where no such change or alteration has taken place, from the date on which the tenant was admitted to the occupation of the holding.

Act: the conditions of his statutory tenancy.

37. Every such tenant who may be admitted to the occupation of a holding after the passing of this Act shall be entitled to retain the same for a period of seven years from the date of his admission at a rent agreed upon with the landlord in accordance with the provisions of this Act; and every such tenant, in the area of whose holding or in the amount of whose rent any change is made by the landlord subsequently to the passing of this Act, shall be deemed to be admitted to the occupation of a holding within the meaning of this section.

Tenant admitted after passing of Act: the conditions of his statutory tenancy.

Explanation I.—"Holding" means a parcel or parcels of land held by a tenant and forming the subject of a separate engagement. The engagement may be express or implied.

Explanation II.—This section and section 36 have effect, subject to the provisions of section 4, sub-sections (3) and (4), relating to land not previously cultivated, and subject also to section 157, excluding certain classes of land from the operation of certain sections of this Act.

38. (1) A landlord may enhance the rent of a tenant to whom section 36 or section 37 applies, either by contract in accordance with the provisions of this section or by notice as hereinafter provided.

Enhancement of rent of tenant not having right of occupancy and not being a sub-tenant.

(2) Subject to the provisions of sections 49 and 50, the enhancement shall not, in any case, exceed one anna in the rupee, or six-and-a-quarter per cent. on the annual rent payable by the tenant at the time when the contract was made or the notice was issued.

(3) Provided that, where rent is paid in kind, the proportion of produce paid as rent by a tenant shall not be subject to increase except in accordance with an established custom of the pargana in which the land is situate.

39. If a landlord desires that the rent of a tenant to whom section 36 or section 37 applies be enhanced on the expiration of the term of seven years referred to in section 36 or section 37, as the case may be, or at any time during the currency of that term in the case mentioned in section 50, he may cause a notice to that effect to be served under section 42.

Enhancement by notice.

40. (1) A notice whereby enhancement is claimed on account of the expiration of the period of the tenancy shall not be served before the commencement of the last year of the tenancy.

Time for service of notice of enhancement.

(Chapter IV.—Enhancement and fixing Rates of Rent. Secs. 41-44.)

(2) A notice of enhancement on account of an improvement made or acquired by the landlord may be served at any time during the currency of the tenancy.

Contents of
the notice.

41. The notice shall be written in Hindi and Urdu, and shall specify the land, the amount of the present rent, and the amount of the enhancement, and require the tenant, if he refuses to pay the enhancement, to vacate the land by the fifteenth day of May next following, or to institute a suit in the proper Court to contest the notice of enhancement within thirty days from the date of the service thereof.

Service of
the notice.

42. On the application of the landlord to the tahsildar or other prescribed officer, the notice shall be served by the officer on or before the fifteenth day of February at the expense of the landlord.

Grounds on
which tenant
may contest
his liability
to enhance-
ment.

43. The tenant may institute a suit to contest the notice of enhancement within thirty days from the date of the service thereof, on any of the following grounds, namely :—

- (a) that he has a right of occupancy in the land specified in the notice ;
- (b) that he holds under a special agreement or decree of Court or lease under the terms of which his rent is not liable to enhancement ;
- (c) that the enhancement claimed is in excess of the rate authorized by law ;
- (d) that seven years will not have elapsed on the fifteenth day of May next following, since the date of any such change of rent or alteration of area as is under section 36 or section 37 equivalent to an admission to the occupation of a holding, or, where no such change or alteration has taken place, since the date on which he was admitted to the occupation of the holding ;
- (e) that the notice has not been served in the manner required by this Act ;
- (f) that, where the enhancement claimed is on account of an improvement, the amount claimed is excessive.

Tenant's
liability for
enhanced
rent.

44. (1) If the tenant does not contest the notice of enhancement and remains in possession of the land after the fifteenth day of May next following the date of the service of the notice, he shall become liable for the enhanced rent.

(2) If the tenant contests the notice, and the validity thereof is maintained by the Court in whole or in part, he shall, if he remains in possession of the land after the fifteenth day of May next following the date of the service of the notice, become liable for the enhanced rent to the extent to which the Court has maintained the validity of the notice.

(Chapter IV.—Enhancement and fixing Rates of Rent. Secs. 45-50.)

45. If the tenant by remaining in possession of the land under the last foregoing section becomes liable for enhanced rent, he shall be entitled to hold the land at that rent for a further period of seven years.

Commence-
ment of fresh
statutory
period.

46. If the tenant refuses to accept the enhancement claimed or decreed and vacates the holding, he shall be entitled to recover by separate suit from the landlord compensation for any improvements made by him on the holding.

Vacating
tenant's right
to compensa-
tion for im-
provements.

47. (1) Except in the cases mentioned in sections 49 and 50, the rent of a tenant admitted to the occupation of any land, the tenancy of which has determined according to the provisions of this Act, shall not exceed by more than one anna in the rupee, or six-and-a-quarter per cent., the rent payable by the tenant immediately preceding him.

Rent of ten-
ant succeed-
ing to vacant
holding.

(2) In the case of a tenant admitted to the occupation of a holding of which the rent has been immediately before his admission paid in kind, the rent payable shall, subject to any established custom of the pargana in which the holding is situate, be either the rent payable by the tenant immediately preceding him, or a sum which, subject to the provisions of sections 49 and 50, shall not exceed by more than six-and-a-quarter per cent. the equivalent of the value of the produce annually paid as rent on the average of the three years immediately preceding.

48. (1) The heir of a tenant who dies during the currency of the tenancy of a holding shall be entitled to retain occupation of the holding at the rent payable by the deceased for the unexpired portion of the period for which the deceased tenant might have held without liability to enhancement or ejectment, and to receive compensation under the provisions of this Act for improvements, if any, made on the holding by himself or his predecessor in interest, but shall not be entitled to a renewal of the tenancy.

Rights of the
heir of a
deceased
tenant.

(2) Subject to any rights which he may have under section 22 as a representative of the deceased, a collateral relative who did not, at the date of the death of the deceased, share in the cultivation of the holding, shall not be deemed to be an heir of the deceased within the meaning of this section.

49. The rent of a tenant admitted to the occupation of any land, the tenancy of which has ceased in consequence of the death of a previous tenant, or of the ejectment of a thikadar or mortgagee from land of which he has taken cultivating possession during the period of his thika or mortgage, shall be such amount as may be agreed upon between him and the landlord.

Rent of
tenant suc-
ceeding to a
holding
vacated by
the death of
the previous
tenant.

50. (1) Nothing in the foregoing sections shall bar the right of a landlord to enhancement of rent on the ground that the productive powers of the land held by the tenant have been increased by an improvement which has been

Enhancement
of rent for
improve-

(Chapter IV.—*Enhancement and fixing Rates of Rent. Sec. 51. Chapter V.—Ejectment. Secs. 52-53.*)

ments made
or acquired
by landlord.

made by, or at the expense of, the landlord, or for which, during the currency of the tenancy, compensation has been accepted from the landlord by the owner of the improvement, or, on the expiration of the tenancy, compensation has been paid in accordance with the determination of a Court under this Act.

(2) Where an enhancement is claimed on the ground of any such improvement, the Court, in determining the claim, shall have regard to —

- (a) the increase in the productive powers of the land caused, or likely to be caused, by the improvement;
- (b) the cost of the improvement; and
- (c) the cost of the cultivation required for the utilising of the improvement.

Power for
Local Gov-
ernment to
vary the limit
of enhance-
ment of rent.

51. Notwithstanding anything in the foregoing sections, the Chief Commissioner may, by notification in the local official Gazette, vary from time to time, within periods of not less than seven years, the limits of the enhancement to which tenants to whom section 36 or section 37 applies are liable in any local area specified in the notification.

CHAPTER V.

EJECTMENT.

Tenants holding on special terms.

Ejectment of
tenants hold-
ing on special
terms.

52. (1) A tenant having a right of occupancy in any land, or holding any land under a special agreement or decree of Court, shall not be ejected from that land otherwise than in execution of a decree for ejectment:

Provided that the decree for ejectment shall not be made, unless, at the date of that decree, a decree against the tenant for an arrear of rent in respect of the land has remained unsatisfied for fifteen days or upwards.

(2) A decree for the ejectment of a tenant holding under a special agreement or decree of Court may be made on such grounds as would justify ejectment under the agreement or decree.

Other Tenants.

Ejectment of
other tenants.

53. A tenant not having a right of occupancy, and not holding under a special agreement or decree of Court, may be ejected by notice, application or suit under the following sections of this Chapter

(Chapter V.—Ejectment. Secs. 54-56.)

54. It a landlord desires to eject any such tenant on the expiration of his tenancy, he may cause a notice of ejectment to be served on the tenant under the next following section. Ejectment by notice.

55. (1) The notice shall be written in Hindi and in Urdu; it shall be signed by the landlord or by an agent authorized by him in that behalf; it shall specify the land from which the tenant is to be ejected; it shall, if a court-fee is payable in respect thereof under this section, contain a certificate by the patwari as to the annual rent payable for the holding to which the notice relates; and it shall inform the tenant that he must either (a), if he means to dispute the ejectment, institute a suit for that purpose within thirty days from the date of the service of the notice, or (b) vacate the land on or before the fifteenth day of May next following. Contents, service and cost of notice.

(2) On the application of the landlord to the tahsildar or other prescribed officer, the notice shall, if the proper court-fee (where a court-fee is payable under this section) has been paid in respect thereof, be served on the tenant by the officer on or before the fifteenth day of November at the expense of the landlord.

(3) If the tenant on whom the notice is to be served is a tenant to whom section 36 or section 37 applies, there shall, except as provided by this sub-section and sub-section (4) and by section 69, be payable in respect of the notice a court-fee equal in value to half the annual rent payable for the holding of the tenant, or, in the case of a tenant paying rent in kind, a court-fee equal to half the value of the produce annually paid as rent on the average of the three years immediately preceding:

Provided that the court-fee shall not in any case exceed twenty-five rupees.

(4) A court-fee shall not be payable under sub-section (3) in respect of a notice on a person to whom section 48 applies.

(5) Stamps representing the court-fee shall be affixed on the notice before the notice and the application for the service thereof are presented to the tahsildar or other prescribed officer.

(6) The court-fee paid by a landlord under this section shall not in any circumstances be adjudged to be payable as costs or otherwise by the tenant.

56. (1) A tenant on whom a notice has been served under the last foregoing section may institute a suit to contest his liability to be ejected from the land specified therein on any of the following grounds, namely:— Grounds on which tenant may contest liability to ejectment.

- (a) that he has a right of occupancy in the land;
- (b) that he holds under a special agreement or decree of Court or unexpired lease under the terms of which he is not liable to be ejected from the land;

(Chapter V.—Ejectment. Secs. 57-60.)

- (c) if he is a tenant to whom section 55, sub-section (3), applies, that the notice was insufficiently stamped ;
- (d) if he is a tenant to whom section 36 or section 37 applies, that seven years will not have elapsed on the fifteenth day of May next following, since the date of any such change of rent or alteration of area as is under section 36 or section 37, as the case may be, equivalent to an admission to the occupation of a holding, or, where no such change or alteration has taken place, since the date on which he was admitted to the occupation of the holding ;
- (e) if he is a tenant to whom section 53 applies, that notice of ejectment has not been served upon him in the manner required by this Act.

(2) A thikadar shall not be entitled to contest a notice of ejectment on any ground other than that he holds a lease under the terms of which he is not liable to ejectment.

Compensation for improvements, if any, to be claimed in suit contesting liability to ejectment.

57. If the tenant has any claim for compensation for improvements on the holding, he shall file with his plaint a statement of the claim and of the grounds on which it is based.

Determination of the claim.

58. If the Court dismisses the suit in whole or in part, it shall determine the amount of the compensation, if any, due for improvements, and shall declare ejectment from the whole or part of the land, as the case may be, to be conditional on payment of that amount into Court.

Tenancy to cease if notice is not contested.

59. If the tenant on whom notice of ejectment has been served fails, within thirty days from the date of the service, to institute a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall cease on the fifteenth day of May next following, unless after the service, the landlord has authorized him in writing to continue to occupy the land.

When assistance to eject may be given by Court.

60. (1) If the landlord requires assistance to eject a tenant on whom he alleges a notice to have been served under section 55, he may apply for that assistance to the Court which would have had jurisdiction with respect to a suit by the tenant to contest his liability to be ejected under the notice, and that Court shall order the ejectment of the tenant if it is satisfied—

- (a) that a notice of ejectment was duly served on the tenant ;
- (b) that the tenant has not brought a suit to contest the notice, or that, if a suit for that purpose has been brought, it has been determined adversely to the tenant ;

(Chapter V.—Ejection. Secs. 61-64.)

(c) that the tenant has not been authorized by the landlord in writing to continue to occupy the land.

(2) Nothing done by the Court under sub-section (1) shall affect the right of the tenant to institute a suit against his landlord on account of illegal ejection and to recover compensation therefor.

61. (1) If a landlord desires to eject a tenant to whom section 53 applies, and against whom a decree for an arrear of rent has been passed and remains unsatisfied, he may, after the first day of April of the year in which that arrear accrued, apply to the Deputy Commissioner to eject the tenant. Ejection by application.

(2) The Deputy Commissioner shall, on receiving the application, cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that if he does not pay that amount into Court within fifteen days from the receipt of the notice, he will be ejected from his holding.

(3) If the amount is not so paid, the Deputy Commissioner shall, unless good cause is shown to the contrary, eject the tenant.

62. (1) A tenant to whom section 53 applies shall be liable to ejection by suit during the currency of his tenancy on any of the following grounds, namely:— Ejection by suit.

(a) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of his tenancy;

(b) that at the time of the institution of the suit the entire holding has been sub-let;

(c) where the rent is payable in kind, that his cultivation has diminished to a point which by the custom of the locality involves the forfeiture of the holding;

(d) where the tenant holds, under an unexpired lease, land to which section 4, sub-sections (3) and (4), applies, then on any ground which would justify ejection under the lease.

(2) The tenant shall continue liable for the rent of the land until the decree is executed.

General.

63. Except in pursuance of an order under section 21, sub-section (3), a tenant shall not in any case, whether in execution of a decree or otherwise, be ejected from the land in his occupation, except between the first day of April and the thirtieth day of June in any year after the passing of this Act. Time of ejection of tenant.

64. A thikadar liable to be ejected under the provisions of this Act may be ejected at any time during his tenancy. Time of ejection of thikadar.

(Chapter V.—Ejectment. Secs. 65-66. Chapter VI.—Supplemental Provisions respecting Tenancies. Secs. 67-68.)

Preferment
by tenants
of claims for
compensation
for improve-
ments in
suits for
ejectment.

65. In any suit for ejectment the defendant may file any claim for compensation for improvements which he may have against the plaintiff, and, if the Court finds the grounds on which the suit is brought to be valid, it shall determine the amount of compensation, if any, due from the plaintiff to the defendant, and shall pass a decree of ejectment conditional on the payment into Court of that amount.

Compensation
to ejected
tenant for
growing
crops.

66. A tenant ejected in accordance with the provisions of this Act shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to the tenant and being on the land at the time of his ejectment:

Provided that, if the land has been sown or planted by the tenant after service on him of a notice under section 55, he shall not be so entitled, unless, after that service, the landlord has authorized him in writing to continue to occupy the land.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS RESPECTING TENANCIES.

Sir-Lands.

Sir-lands.

67. (1) The rights conferred upon tenants by sections 24, 36, 37, 38, 39, 45, 46, 47 and 48 shall not accrue to cultivators of any of the following lands, namely:—

- (a) land which for the seven years immediately preceding the passing of this Act has been continuously dealt with as sir in the distribution of proprietary or under-proprietary profits and charges;
- (b) land which for the seven years immediately preceding the passing of this Act has been continuously cultivated by the proprietor or under-proprietor himself, or by his servants or by hired labour.

(2) Land which was recorded as sir at settlement and has been continuously so recorded since shall, until the contrary is proved, be presumed to be land of the class mentioned in clause (a) of sub-section (1).

Thikadars, Mortgagees and Sub-tenants.

Thikadars,
mortgagees
and sub-
tenants.

68. (1) A person holding land as a thikadar, mortgagee or sub-tenant shall not, while so holding, acquire any of the rights enumerated in the last foregoing section in any of the land comprised in his thika, mortgage or sub-tenancy.

(2) A person having those rights in land does not lose them by subsequently taking a thika or mortgage in which his holding is comprised.

(Chapter VI.—Supplemental Provisions respecting Tenancies. Secs. 69-71.

Chapter VII.—Distress for Arrears of Rent. Sec. 72.)

Long Leases.

69. (1) When a holding has been let by registered document for a term of eight years or upwards at a rent determined thereby for the whole of the term in accordance with the provisions of this Act to a tenant to whom section 36 or section 37 applies, the landlord shall, on the expiration of the term, be entitled to enhance the rent of the holding in accordance with the provisions of Chapter IV, Part B, and not otherwise, and shall also be entitled to eject the tenant by notice under section 55 without payment of a court-fee under that section :

Incidents of leases for eight years or upwards.

Provided that any change in the rent or alteration in the area of the holding by the landlord during the term shall be a bar to enhancement and ejectment for seven years from the date of that change or alteration.

(2) In addition to the grounds mentioned in clauses (a), (b) and (c) of section 62, sub-section (1), a tenant to whom this section applies shall be liable to ejectment by suit during the currency of his tenancy on any ground which would justify ejectment under the registered document under which he holds.

Miscellaneous.

70. Where a tenant has received a patta, a statement that since the date of the patta his rent has been changed, or area of his holding altered, by the landlord, shall not be admissible in evidence unless the change or alteration is recorded in an entry on the patta signed by or on behalf of the landlord, and in an entry on the counterpart signed by or on behalf of the tenant, or in a new patta and counterpart.

Evidence respecting change of rent or alteration of area of holding.

71. The expression "special agreement" or "decree of Court," where it is used in this Act to signify the tenure on which land is held by a tenant, is to be construed as referring to an agreement or decree made or passed before the passing of this Act.

Construction of certain expressions.

CHAPTER VII.

DISTRESS FOR ARREARS OF RENT.

72. When an arrear of rent is due from any tenant, the landlord may, subject to the provisions of this Chapter, distrain the produce of the land in respect of which the arrear is due :

Recovery of arrears of rent by distress.

Provided that, when a tenant has given security for the payment of his rent, the produce of the land in respect of which the rent is payable shall not be liable to distress so long as the security is in force.

(Chapter VII.—Distress for Arrears of Rent. Secs. 73-77.)

Distress not permissible in certain cases.

73. Distress shall not be made for the recovery of—

- (a) any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear is due, unless the tenant has agreed in writing to pay that excess, or unless he has been declared by decree to be liable therefor, or
- (b) any arrear which has been due for a longer period than one year.

Power of distress by whom exercisable.

74. The power of distress vested by section 72 in landlords may be exercised by managers under the Court of Wards, managing agents and tahsildars of estates held under direct management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by landlords or any such persons as aforesaid in the collection of rent, if expressly authorized by power-of-attorney to distrain :

Provided that, if any such agent, purporting to act in the exercise of that power, commits an act which, under the provisions of this Chapter, is illegal, the person employing him shall be liable, as well as the agent, to be sued for compensation for any injury caused by the act.

Distress by servants.

75. Any person empowered to distrain property under section 72 or section 74 may employ a servant or other person to make the distress, but in every such case he shall give to the servant or person a ¹ written authority in that behalf, and the distress shall be made in the name and on the responsibility of the person giving the authority.

Crops liable to distress.

76. (1) Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with powers of distress under this Act.

(2) But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement as the land in respect of which the arrear is due, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distress under this Act.

Demand of arrear before or at time of distress.

77. (1) Before or at the time when any distress is made under this Act the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrears, together with an account exhibiting the grounds on which the demand is made.

(2) The demand and account shall, if practicable, be served personally on the defaulter, but, if he cannot be found, they shall be affixed at his usual place of residence, and shall thereupon be deemed to be duly served upon him.

¹ The duty chargeable on these documents under the Stamp Act, 1899 (II of 1899), has been remitted, see Gazette of India, 1904, Pt. I, p. 569.

(Chapter VII.—Distress for Arrears of Rent. Secs. 78-83.)

78. Unless the amount of the demand is immediately paid or tendered, the distrainer may distress property as aforesaid of value as nearly as may be equal to the amount of the arrear with the costs of the distress; and, when he has made the distress, he shall prepare a list or description of the property distrained and deliver a copy thereof to the owner, or, if the owner is absent, affix it at his usual place of residence.

Value of distress and service of list of distrained property on owner.

79. (1) Standing crops and other ungathered products of the earth may, notwithstanding the distress, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly used by him for the purpose.

Reaping and storing standing crops distrained.

(2) If the tenant neglects to do so, the distrainer may cause the crops or products to be reaped or gathered, and in that case shall store them either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

(3) In either case the distrained property shall be placed in the charge of some proper person appointed by the distrainer for the purpose.

(4) If the crops or products do not, from their nature, admit of being stored, the distress shall be made (if at all) at least twenty days before the time when the crops or products or any part thereof would ordinarily be fit for cutting or gathering.

80. If a distrainer is opposed or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it thinks necessary, depute an officer to assist the distrainer in making the distress.

Application by distrainer in case of resistance.

81. If at any time after property has been distrained as aforesaid; and before the sale thereof as hereinafter provided, the owner tenders payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the payment and give a receipt therefor and forthwith withdraw the distress.

Withdrawal of distress on tender of arrear and costs.

82. Within five days from the time of storing any distrained crops or products, or, if the crops or products do not from their nature admit of being stored, within five days from the time of making the distress, the distrainer shall apply for the sale thereof to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate.

Application for sale.

83. (1) The application shall be in writing; it shall contain a list or description of the property distrained, and it shall state the name of the defaulter, his place of residence, the amount due and the place in which the distrained property is deposited.

Form of application.

(Chapter VII.—Distress for Arrears of Rent. Secs. 84-87.)

(2) Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as provided in the next following section.

Procedure on receipt of application.

84. (1) Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in Schedule C to this Act, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

(2) The officer shall at the same time send to the Court, for the purpose of being put up at the court-house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation, and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

(3) The proclamation shall contain a description of the property, and shall specify the demand for which it is to be sold, and the place where the sale is to be held.

Suspension of sale on institution of suit.

85. (1) If a suit is instituted in pursuance of the notice mentioned in the last foregoing section, the Court shall send to the proper officer, or, if so requested by the owner of the distrained property, shall deliver to him, a certificate of the institution of the suit.

(2) On the certificate being received by, or presented to, the proper officer he shall suspend proceedings in regard to the sale :

Provided that, if in his opinion the property distrained is such that delay will cause damage thereto, he may direct its immediate sale.

Suit to contest distrainer's demand.

86. (1) Any person whose property has been distrained as aforesaid may institute a suit to contest the distrainer's demand at any time before the expiration of the fifteen days mentioned in section 84, sub-section (1).

(2) When any such suit is instituted, the Court shall proceed in the manner directed in section 85.

(3) If application for the sale of the property is afterwards made to the proper officer, he shall send a copy of the application to the Court, and suspend further proceedings pending the decision of the case.

Withdrawal of distress on execution of bond.

87. (1) The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with one or more surety or sureties, for an amount not less than double the value of the property distrained, binding himself to pay whatever sum may be adjudged to be due from him, with costs of suit.

(Chapter VII.—Distress for Arrears of Rent. Secs. 88-92.)

(2) When a bond has been executed under sub-section (1), the Court shall give to the owner of the property a certificate to that effect, or, if he so requests, shall serve the distrainer with notice of the execution of the bond.

(3) Upon the certificate being presented to the distrainer by the owner of the property, or upon the notice being served on the distrainer by order of the Court, as the case may be, the property shall be released from distress.

88. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the proper officer in the manner hereinbefore provided, he shall, unless that demand, with such costs of the distress as are allowed by him, is discharged in full, proceed, with the sanction of the Court, to sell the property, or such part thereof as may be necessary. Sale.

89. (1) The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bazar or other place of public resort, if the proper officer thinks that it is likely to sell there to better advantage. Place and manner of sale.

(2) The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable, and if the demand, with the costs of distress and sale, is satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

90. If, on the property being put up for sale, a price which the officer holding the sale thinks fair is not offered, and if the owner of the property or his recognized agent applies to have the sale postponed until the next day or (if a market is held at the place of sale) until the next market-day, the sale shall be postponed until that day, and shall be then completed at whatever price may be offered. Postponement of sale.

91. (1) The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks fit, and in default of payment, the property shall be put up again and re-sold. Payment of purchase-money.

(2) When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor.

92. (1) The officer holding the sale shall deduct from the proceeds one anna for every rupee and fraction of a rupee on account of the expenses attending the sale. Proceeds of sale.

(2) He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 84 to such amount as, after examination of the statement of expenses furnished by the distrainer, the officer thinks proper to allow.

(Chapter VII.—Distress for Arrears of Rent. Secs. 93-96.)

(3) The remainder shall be applied to the discharge of the arrear for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold.

Officers holding sales not to purchase.

93. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, those officers, are forbidden to purchase, either directly or indirectly, property sold by those officers.

Illegal acts of distrainer to be reported.

94. (1) The officer mentioned in section 82 shall bring to the notice of the Court any illegal act which may come to his knowledge as having been committed by any person in making a distress under this Act.

(2) If in any case, on proceeding to hold a sale under this Act, that officer finds that the owner has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 84, or make such other order as it thinks proper.

Recovery of expenses where sale does not take place.

95. (1) When that officer has gone to any place for the purpose of holding a sale and a sale does not take place either for the reason stated in section 94 or because the distrainer's demand has been previously satisfied, a charge of one anna for every rupee of the value of the distrained property, as estimated by the officer, shall be leviable by him on account of the expenses of the intended sale, unless the distrainer's demand has been satisfied before the day fixed for the sale and notice of its having been satisfied has been given by him to the officer.

(2) If the distrainer's demand is not satisfied until the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion of the property as may be necessary.

(3) In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property.

(4) The charge leviable under this section shall not exceed ten rupees in any case.

Second proclamation of sale when arrears are adjudged to be due.

96. (1) When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion thereof is adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

(2) On the application of the distrainer (which shall be made within five days from the receipt of the order by the officer), the officer shall publish a second proclamation in the manner prescribed in section 84, fixing another day for the sale of the distrained property, not being less than five, or more than ten, days from the date of the proclamation, and, unless the amount adjudged

(Chapter VII.—Distress for Arrears of Rent. Secs. 97-101.)

to be due with costs of distress is paid before that day, shall proceed to sell the property in the manner hereinbefore provided.

97. (1) In all suits instituted to contest a distrainer's demand, the defendant must prove the arrear in the same manner as if he had himself brought a suit for the amount of the arrear.

Distrainer to prove the arrear in suit to contest his demand.

(2) If the demand or any part thereof is found to be due, the Court shall make in favour of the distrainer a decree for the amount so found.

(3) That amount may be recovered, if the distrained property has not been released on security, by sale of the distrained property as provided in section 96, and, if any balance remains due after the sale, by execution of the decree against the person and any other property of the defaulter, or, if the distrained property has been released on security, by execution of the decree against the person and property of the defaulter, and, if his surety has been made a party to the suit, against the person and property of the surety.

98. If the distress is adjudged to be vexatious or groundless, the Court besides directing the release of the distrained property, may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

Compensation for vexatious distress.

99. If any person claims, as his own property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and that other person to try the right to the property, in the same manner, and under the same rules as to the time of instituting the suit and as to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent, alleged to be due from him, may institute a suit to contest the demand.

Suit by third party claiming property distrained.

100. (1) When any such suit is instituted, the property may be released upon security for its value being given to the satisfaction of the Court.

Rules applicable to suit by third party.

(2) If the claim is dismissed, the Court shall make an order in favour of the distrainer for the sale of the property, or the recovery of its value, as the case may be.

(3) If the claim is upheld, the Court shall order the release of the distrained property, and may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

101. No claim to any produce liable to distress under this Act and found at the time of the distress in the possession of a defaulting tenant, whether the claim be in respect of a previous sale, mortgage or otherwise, shall bar the landlord's prior claim, nor shall any attachment in execution of a decree of any Civil Court prevail against the prior claim of the landlord.

Landlord's prior claim to distrainable produce in possession of defaulting tenant.

(Chapter VII.—Distress for Arrears of Rent. Secs. 102-105.)

Stranger claiming to be landlord and to have right of distress to be made a party.

102. When property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, and the right to distrain for that arrear is claimed by or on behalf of any person other than the distrainer, on the ground of that other person being actually and in good faith in the receipt and enjoyment of the rent of the land, that other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the commencement of the suit shall be inquired into, and the suit shall be decided according to the result of the inquiry :

Provided that the decision of the Court shall not affect the right of any person having a title to the rent of land to establish that title in a Court of competent jurisdiction, by suit instituted within one year from the date of the decision.

Suit for illegal distress.

103. Any person whose property has been distrained for the recovery of a demand not justly due or of a demand due or alleged to be due from some other person, and who is prevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be within the period allowed by section 84 or section 99, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress and sale.

Suit for illegal act of distrainer.

104. In any of the following cases, namely :—

(a) if any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrains or sells, otherwise than in accordance with the provisions of this Act, any property for the recovery of an arrear of rent alleged to be due, or

(b) if any distrained property is lost, damaged or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or

(c) if the distress is not immediately withdrawn when any provision of this Act requires its withdrawal,

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

Suit for distress or sale falsely purporting to be under the Act.

105. (1) If any person not empowered by this Act to distrain or sell, or not duly authorized for that purpose by a person so empowered, purports to distrain or sell any property under this Act, the owner of the property may institute a suit to recover compensation from the person so distraining or selling for any injury which the plaintiff has sustained from the distress or sale.

Chapter VII.—Distress for Arrears of Rent. Secs. 106-107. Chapter VII-A.—Resumption of land held rent-free or at a favourable rate of rent. Secs. 107 A-107 B.)

(2) The institution of a suit under sub-section (1) shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

106. (1) If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Court, upon complaint being made within ten days from the date of the resistance or removal, shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

Procedure in case of resistance to distress.

(2) If the case cannot be at once heard and determined, the Court may, if it thinks fit, require the person arrested to give security for his appearance whenever he may be required to appear, and, in default of the security being given, may commit him to the civil jail until the case is tried.

107. If the resistance to the distress or the removal of the distrained property is proved, the Court may order the offender to pay a fine not exceeding one hundred rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made :

Punishment of offender.

Provided that the offender shall not be imprisoned under this section for a longer term than six months.

¹ CHAPTER VII-A.

RESUMPTION OF LAND HELD RENT-FREE OR AT A FAVOURABLE RATE OF RENT.

107A. A proprietor of a mahál or part of a mahál may sue to resume possession of, or to have rent assessed on, any land situated in such mahál or part of a mahál purporting to be held rent-free, whether by grant in writing or otherwise, and to resume possession of, or to enhance the rent of, any land held at a favourable rate of rent, whether so held by grant in writing or otherwise.

Land held rent-free or at favourable rate liable to resumption, assessment or enhancement of rent.

107B. All land held rent-free or at a favourable rate of rent shall be liable to resumption or assessment or enhancement of rent unless the holder establishes that the land—

Saving of certain lands held rent-free or at favourable rate.

(a) is so held under a grant sanctioned by the Governor General in Council or ²Chief Commissioner ; or

¹ Ch. VII-A was inserted by s. 5 of the Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act 4 of 1901), *infra*, p. 885.

² Now Lieutenant-Governor, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902 Pt. I, p. 228, and the United Provinces (Designation) Act, 1902, s. 2, *infra*, p. 527.

(Chapter VII-A.—Resumption of land held rent-free or at a favourable rate of rent. Secs. 107C-107E.)

(b) is so held under a judicial decision previously to the first day of January, 1902; or

(c) was acquired rent-free or at a favourable rate of rent for a valuable consideration previously to the commencement of the ¹Oudh Land Revenue Act, 1876, and the right to resume it had been, previously to the commencement of that Act, barred by the law of limitation: XVII of 1876.

Provided that no land held under a written instrument, whether executed before or after the first day of January, 1902, by which the grantor expressly agrees that the grant shall not be resumed, shall be liable to resumption, or assessment or enhancement of rent until the grantor dies, or the term of the current settlement of the local area in which the grant is situated expires, whichever event first occurs:

Provided also that nothing in this section shall apply to any grants to which the provisions of section 79 of the ²North-Western Provinces and Oudh Land-revenue Act, 1901, are applicable.

U. P. III of 1901.

Application when to be made to the Settlement-officer.

107C. (1) Suits under section 107A shall, when the district or other local area in which the land is situated is under settlement, be instituted in the Court of the Settlement-officer, who shall have the powers of a Collector under this Chapter.

(2) Nothing in the ³Indian Limitation Act, 1877, shall bar the right to institute a suit under this Act to assess to rent land held rent-free. XV of 1877.

Land not liable to resumption liable to assessment or enhancement of rent.

107D. In a suit for the resumption of land held rent-free or at a favourable rate, if the Court finds, on grounds other than those specified in section 107B, that the land is not liable to resumption, it shall proceed to determine, under sections 107G and 107H, whether the land is liable to assessment or enhancement of rent.

Rent-free land when liable to resumption.

107E. Land held rent-free or at a favourable rate shall be liable to resumption, only when by the terms of the grant or by local custom it is held—

- (a) at the pleasure of the grantor;
- (b) for the performance of some specific service, religious or secular, which the proprietor no longer requires;
- (c) conditionally or for a term, and the conditions are broken or the term expires.

Every suit for resumption under this section shall be brought within

¹ Now rep. by the U. P. Land revenue Act, 1901 (U. P. Act 3 of 1901), *infra*, p. 825. Act 17 of 1876 came into force on the 10th October, 1876, the date when it was passed.

² *Infra*, p. 825

³ See the reprint of the Act as modified up to 31st December, 1900.

(Chapter VII-A.—*Resumption of land held rent-free or at favourable rate of rent.* Secs. 107 F-107 H.)

twelve years from the date on which the right to resume first accrues. Such right first accrues—

- in case (a), on the first day of January, 1902, in respect of existing grants and in respect of future grants on the date of such grant ;
- in case (b), on notice in writing by the proprietor to the grant-holder that the service is no longer required ;
- in case (c), when the conditions are broken or the term expires.

Nothing in this section shall prevent the proprietor from suing for assessment or enhancement of rent on land resumable under this section in lieu of resumption thereof.

107F. If the Court orders the grant to be resumed, it shall at the same time pass a decree for the ejection of the holder subject to the provisions of sections 22, 23, 26, 27, 28, 63 and 66 of this Act, which shall apply as if the holder had been a tenant.

Order of
ejection
when the
land is
resumed.

107G. (1) Land not liable to resumption under section 107E and to which the provisions of section 107H do not apply shall be liable to assessment or enhancement of rent, as the case may be.

Rent-free
land when
liable to
assessment or
enhancement
of rent.

(2) When a grant held rent-free or at a favourable rate is found to be liable to have rent assessed or enhanced thereon, the grantee shall be deemed to be a tenant without a right of occupancy under sections 36 and 37 of this Act, and the rent shall be determined at such rate as the Court may consider to be fair and equitable, having regard to the rents paid for land of similar quality and with similar advantages in the neighbourhood.

(3) The period of seven years for which he shall be entitled to retain the holding shall begin from the first day of July next following the date of the institution of the suit.

107H. Land not liable to resumption under section 107E and which has been held rent-free or at a favourable rate since the thirteenth day of February, 1856, or for fifty years and by two successors to the original grantee ; and

When rent-
free tenure
confers under
proprietary
right.

land which was acquired, in perpetuity, in consideration of the loss or surrender of a right previously vested in the grantee, or by written instrument and for a valuable consideration,

shall be deemed to be held in under-proprietary right and the Court shall declare the holder of such land to be the under-proprietor thereof, and liable to pay a rent therefor equal to the revenue with an addition of not less than ten or more than fifty per cent., and shall assess the rent payable by the under-proprietor.

In the case of revenue-free maháls the term " revenue " for the purposes of

(Chapter VII-A.—Resumption of land held rent-free or at a favourable rate of rent. Secs. 107I-107K. Chapter VIII.—Jurisdiction of the Courts. Sec. 108.)

this section, shall mean the amount that would be payable on such mahál if it was liable to assessment.

Meaning of
"favourable
rate of rent."

107I. For the purposes of this Chapter a grant of land at a favourable rate of rent means a grant of land at a rent less than the aggregate of the revenue and local rates payable thereon.

Resumption
by an under-
proprietor.

107J. For the purposes of this Chapter the words "proprietor of a mahál or portion of mahál" include an under-proprietor with whom a sub-settlement has been made.

Special pro-
visions as to
appeals.

107K. Notwithstanding anything contained in section 116, appeals from decrees or orders under this Chapter shall be governed by the provisions of Chapter X of the ¹North-Western Provinces and Oudh Land-revenue Act, ^{U. P. III of 1901.} 1901.

CHAPTER VIII.

JURISDICTION OF THE COURTS.

Suits cognizable.

Suits
cognizable
under the
Act.

108. ²[Except in the way of appeal as hereinafter provided], Courts other than Courts of Revenue shall not take cognizance of the following descriptions of suits, and those suits shall be heard and determined in Courts of Revenue in the manner provided in this Act, and not otherwise:—

A.—Suits by a Landlord—

- (1) for the delivery by a tenant of the counterpart of a patta ;
- (2) for arrears of rent, or, where rent is payable in kind, for the money-equivalent of rent ;
- (3) for the enhancement of the rent of a tenant ;
- (4) for the ejectment of a tenant ;
- (5) against patwaris or agents employed by landlords in the management of land or the collection of revenue or rent, or against the sureties of those patwaris or agents for money received or accounts kept by the patwaris or agents in the course of their employment as aforesaid, or for papers in their possession, or for the rendering and settlement of accounts ;

³[(5A) for resumption of, or assessment or enhancement of, rent on land held rent-free or at a favourable rate of rent ;]

¹ *Infra*, p. 825.

² These words were prefixed to s. 108 by the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 46, *infra*, p. 409.

³ Cl. (5A) was inserted by s. 6 of the Oudh Rent Act, 1886, Amendment Act, 1901 (U. P. Act 4 of 1901), *infra*, p. 885.

*(Chapter VIII.—Jurisdiction of the Courts. Sec. 108.)**B.—Suits by an Under-proprietor or a Tenant—*

- (6) for establishing a right of occupancy ;
- (7) for the delivery by a landlord of a patta ;
- (8) for contesting a notice of enhancement or ejectment ;
- (9) for compensation—
 - (a) on account of illegal enforcement of payment of rent, or of any sum in excess of rent due, or
 - (b) on account of the withholding of a receipt for a payment of rent, or
 - (c) on account of illegal ejectment, or
 - (d) on account of loss caused by the making of an improvement under section 29, sub-section (3), or
 - (e) on account of the value of standing crops under section 66 ;
- (10) for the recovery of the occupancy of any land which has been treated by a landlord as abandoned or from which an under-proprietor or tenant has been illegally ejected by the landlord ;
- (11) for contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of that power, or for compensation for illegal distraint ;
- (12) for abatement of rent in accordance with the provisions of section 18 or section 29, sub-section (4) ;
- (13) for the recovery of compensation for improvements in accordance with the provisions of section 22 ;

C.—Suits regarding the Division or Appraisal of Produce—

- (14) to set aside an award in respect of a division, estimate, appraisal or proceeding under section 32 ;

D.—Suits by and against Lambardars, Co-sharers and Muafidars—

- (15) by a sharer against a lambardar or co-sharer for a share of the profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of those profits ;
- (16) by a lambardar, or by a pattidar who is entitled to collect the rents of the patti, for arrears of revenue or rent payable through him by the co-sharers whom he represents, or by a lambardar for village-expenses and other dues for which the co-sharers may be responsible to him or against a joint lambardar for compensation for revenue or rent paid by the lambardar on account of the joint lambardar ;

(Chapter VIII.—Jurisdiction of the Courts. Secs. 109-114.)

- (17) by co-sharers against lambardars, or by proprietors or lessees against muafidars or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the withholding of a receipt for a payment of revenue or rent ;
- (18) by muafidars or assignees of revenue for arrears of revenue.

Grades of Courts.

Grades of Courts for the purposes of the Act.

109. For the purposes of this Act, there shall be five grades of Courts of Revenue, namely :—

- (1) the Assistant Collector of the second class ;
- (2) the Assistant Collector of the first class ;
- (3) the Collector ;
- (4) the Commissioner ;
- (5) ¹[the Board].

Power to invest officers with powers of Assistant Collector.

110. (1) ²The Chief Commissioner may from time to time confer³ upon any officer the powers of an Assistant Collector of the first or of the second class under this Act, and may at any time withdraw those powers.

(2) In conferring powers under this section the ²Chief Commissioner may empower persons specially by name or classes of officials generally by their official titles.

Deputy Commissioner to have Collector's powers.

111. The Deputy Commissioner shall exercise the powers of a Collector under this Act.

Investment of Settlement-officers with powers of Collector or Assistant Collector.

112. The ²Chief Commissioner may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector or Assistant Collector under this Act.

Jurisdiction of Assistant Collector of the second class.

113. An Assistant Collector of the second class may try and determine suits of the descriptions mentioned in clauses (1), (2), (7), (12), (15), (16), (17) and (18) of section 108, of which the value does not exceed one hundred rupees.

Jurisdiction of Assistant Collector of the first class.

114. An Assistant Collector of the first class may try and determine suits of every description of which the value does not exceed five thousand rupees.

¹ "The Board" was substituted for "the Judicial Commissioner" by the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 47, *infra*, p. 409.

² Now Lieutenant-Governor, *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

³ For notification conferring these powers, *see* those noted on pp. 98 to 100 of list 4 of United Provinces List of Local Rules and Orders, Ed. 1904, Vol. I.

115. (1) The Collector may try and determine suits of every description without limit, as regards the value * * * * *.¹ Jurisdiction of Collector.

(2) Whenever the state of the public business so requires, the ²Chief Commissioner may invest any Assistant Collector of the first class with the powers of a Collector for the trial and determination of suits and appeals under this Act, other than appeals from decisions of that Assistant Collector, and with the powers of a Deputy Commissioner under sections 24, 25 and 61, and may invest any Collector with all or any of the powers of a Commissioner under this Act.

XIV of 1882. 116. ³Subject to the provisions of section 119 and of the ⁴Code of Civil Procedure as applied by this Act, an appeal shall lie from an original or appellate decree or order made under this Act, as follows, namely :— Appeals to Courts of Revenue.

(a) to the Collector when the decree or order is made by an Assistant Collector of the second class :

(b) to the Commissioner when the decree or order is made by a Collector or an Assistant Collector of the first class :

(c) to the Board when the decree or order is made by a Commissioner :

XIV of 1882. Provided that, subject to the provisions of section 119, an appeal from an original decree or order of a Collector shall not lie except on the grounds mentioned in section 584 of the ⁴Code of Civil Procedure, and that the decree or order made on that appeal shall be final.

117. [Jurisdiction of Judicial Commissioner.] Rep. Act XX of 1890, s. 50.

Appeals.⁵

118. (1) Save as provided by sub-section (2) of this section, an appeal shall not lie— Limitation for appeals.

(a) to the Collector—after the expiration of thirty days from the date of the decree or order complained of ;

¹ The words “and hear appeals from decrees of Assistant Collectors of the second class, and except where an appeal is prohibited by the Code of Civil Procedure as applied by this Act, from orders of Assistant Collectors of the first or of the second class” were repealed by the United Provinces Act, 1890 (20 of 1890), s. 48, *infra*, p. 409.

² Now Lieutenant-Governor, *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1502, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ This section was substituted for the original s. 116 by Act 20 of 1890, s. 49, *infra*, p. 409. The original section was as follows :—

“The Commissioner may, subject to the provisions of section 119, hear and determine appeals from original decrees of Collectors and of Assistant Collectors of the first class, and, except where an appeal is prohibited by the Code of Civil Procedure as applied by this Act, from original orders of Collectors.”

⁴ *See* the Act, as modified up to 1st December, 1899.

⁵ As to disposal of appeals pending when Part II of the N.-W. P. and Oudh Act, 1890 (20 of 1890), came into force, *see* s. 54 of that Act, *infra*, p. 409.

(Chapter VIII.—Jurisdiction of the Courts. Secs. 119-119C.)

(b) to the Commissioner—after the expiration of sixty days from that date; or

(c) ¹ [to the Board]—after the expiration of ninety days from that date.

(2) In computing these periods of thirty, sixty and ninety days, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877.²

XV of 1877.

Appeals to
Judge and
Judicial Com-
missioner.

³ 119. Subject to the provisions of the Code of Civil Procedure⁴ as applied by this Act, an appeal shall lie from an original decree or order of a Collector or of an Assistant Collector of the first class in a suit of a description mentioned in clause (2), (9), sub-clause (a) or (b), (11), (15), (16), (17) or (18) of section 108, as follows, namely:—

XIV of 1882.

(a) to the District Judge, if the value of the suit does not exceed five thousand rupees;

(b) to the Judicial Commissioner, if the value of the suit exceeds five thousand rupees.

Procedure in
appeals to
District
Judge or
Judicial Com-
missioner.

⁵ 119A. The rules for the time being in force in regard to the time within which appeals from the decrees and orders of Civil Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals under this Act to the District Judge or to the Judicial Commissioner.

Second
appeals.

⁶ 119B. From the decrees passed under this Act in appeal by District Judges an appeal shall lie to the Judicial Commissioner in all cases in which a second appeal is allowed by the Code of Civil Procedure⁴ and subject to the provisions of the Indian Limitation Act, 1877.²

XIV of 1882.

XV of 1877.

Powers of
District

⁷ 119C. For the purpose of deciding appeals under this Act a District

¹ The words "to the Board" were substituted for the words "to the Judicial Commissioner" by the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 51, *infra*, p. 409.

² See the Act, as modified up to the 31st December, 1900.

³ This section was substituted for the original s. 119 by Act 20 of 1890, s. 52, *infra*, p. 409.

The original section was as follows:—

"The decree or order of a Commissioner or of a Collector in a suit of value not exceeding one hundred rupees and of a description mentioned in clause (2), (5), (9), (11), (14), (15), (16), (17) or (18) of section 108, or in an appeal from a decree or order in any such suit, shall be final, unless a question of right to enhance or otherwise vary the rent of a tenant, or a question relating to a title to land or to some interest in land, as between parties having conflicting claims thereto, has been determined by the decree or order of the Commissioner or of the Collector, in which case the decree or order last mentioned shall be open to appeal in the manner provided in this Act."

⁴ For Act XIV of 1882, see the revised edition, as modified up to 1st December, 1899.

⁵ Ss. 119A to 119C were inserted by the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 52, *infra*, p. 409.

(Chapter VIII.—Jurisdiction of the Courts. Secs. 120-123.)

Judge and the Judicial Commissioner shall have the powers conferred on a Court by this Act.

Judge and
Judicial
Commissioner
in appeal.

120. An order of a Deputy Commissioner sanctioning a remission of rent under section 19, or granting or refusing an application under section 24, or determining the amount of the outlay on an improvement under section 25, or directing or refusing to direct the ejectment of a tenant under section 61, shall be subject to appeal to the Commissioner, whose order on the appeal shall be final.

Appeal from
orders of De-
puty Commis-
sioners acting
as such.

Review.¹

¹ 120A. The Board may review and may rescind, alter or confirm any decree or order made by itself, or by a single member, on the application of one of the parties to the case, if preferred within ninety days from the passing of the decree or order.

Power for
Board to
review its
orders.

Distribution of Business.

XIV of 1882.

121. Notwithstanding anything in the Code of Civil Procedure,² the Deputy Commissioner may, by order in writing, direct that any business cognizable by him and the Courts subordinate to him shall be distributed among those Courts in such manner as he thinks fit:

Power of
Deputy Com-
missioner to
distribute
business.

Provided that a direction given under this section shall not empower any Court to exercise any power or deal with any business beyond the limits of its proper jurisdiction.

Transfer of Suits and other Proceedings.

122. The * * * Deputy Commissioner may withdraw any suit or other proceeding instituted in any Court subordinate to him, and try it himself or refer it for trial to any other such Court competent to try it.

Transfer of
suits and
other proceed-
ings by
Deputy Com-
missioners.

123. ⁴ [The Board or the Commissioner] may order that any suit or other proceeding pending in any Court ⁴ [subordinate to the Board or the Commissioner] shall be transferred to any other such Court ⁴ [competent as regards the nature of the case to dispose of it.]

Transfer of
suits and
other proceed-
ings by Board
or Commis-
sioner.

¹ This heading and s. 120A were inserted by Act 20 of 1890, s. 55, *infra*, p. 410.

² For Act XIV of 1882, see the revised edition, as modified up to 1st December, 1890.

³ The words "Commissioner or" were repealed by the N.W.P. and Oudh Act, 1890 (20 of 1890), s. 56, *infra*, p. 410.

⁴ These words were substituted for the words "the Judicial Commissioner", "subordinate to him" and the words "competent to dispose of it", respectively, in s. 123, by Act 20 of 1890, s. 57, *infra*, p. 410.

Miscellaneous.

General Sub-
ordination of
Courts.

124. In the performance of their duties under this Act, Collectors shall be subordinate to, and subject to the direction and control of, Commissioners and ¹[the Board], and Assistant Collectors shall be subordinate to, and subject to the direction and control of, the Deputy Commissioners to whose districts they are respectively appointed:

Provided that nothing in this section shall empower ¹[the Board] or any Commissioner or Deputy Commissioner to interfere in any way not authorized by this Act with any decision or order in a suit.

Power to
refer to
Judicial Com-
missioner
questions as
to jurisdic-
tion.

²124A. (1) If, in any suit instituted or on any appeal presented, in a Civil Court or in any Court of Revenue, the Judge or presiding officer doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the Judicial Commissioner.

(2) On any such reference being made, the Judicial Commissioner may order the Judge or presiding officer either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as the Judicial Commissioner may in his order declare to be competent to take cognizance of the suit or appeal.

(3) The order of the Judicial Commissioner on any such reference shall be final, and shall not be questioned by the same parties in the same suit.

Procedure
where objec-
tion that suit
was instituted
in wrong
Court
was not
taken in
Court of first
instance.

²124B. In all suits instituted in any Civil Court or Court of Revenue, in which an appeal lies to the District Judge or the Judicial Commissioner, an objection that the suit was instituted in the wrong Court shall not be entertained by the Appellate Court, unless such objection was taken in the Court of first instance; but the Appellate Court shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure
where such
objection was
taken in
Court of first
instance.

²124C. If in any such suit such objection was taken in the Court of first instance, but the Appellate Court has before it all the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure
where in
such cases

²124D. If in any such suit the Appellate Court has not before it the materials necessary for the determination of the suit, it shall proceed under

¹ The words "the Board" in both places where they occur in s. 124 and proviso were substituted for the words "the Chief Commissioner" by the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 68, *infra*, p. 410.

² Ss. 124A to 124D were inserted by Act 20 of 1890, s. 69.

(Chapter VIII.—*Jurisdiction of the Courts. Secs. 125-128. Chapter IX—
Limitation of Suits. Sec. 129.*)

XIV of 1882. the provisions of the Code of Civil Procedure¹ relating to appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken by the Court of first instance, it may direct, its orders either to the Court in which the suit was instituted, or to any other Court competent to entertain the suit;

the Appellate Court has not materials for determining the suit.

and the objection that the order of a subordinate Appellate Court has been directed to a Court which was not competent to entertain the suit shall not be taken on second appeal.

125. Suits which, under the provisions of this Act, may be brought by or against landlords may be brought by or against managing agents or tahsildars of estates held under direct management, whether those estates are the property of Government or not.

Suits by or against managing agents or tahsildars of estates held under direct management.

126. (1) A sharer in a joint estate or under-proprietary or other tenure in which a division of land has not been made among the sharers, shall not exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants, or distress, otherwise than through a manager authorized to collect the rents on behalf of all the sharers.

Sharer to exercise certain powers only through manager or lambardar.

(2) In pattidari estates or tenures those powers shall be exercised only through a lambardar, or through the pattidar who is entitled to collect the rents of the patti.

(3) Nothing in this section shall be construed to affect any local custom or special contract.

127. Any person in possession of land occupied without consent of the landlord shall be liable for the rent of that land at the rate payable in the previous year, or, if rent was not payable in the previous year, at such rate as the Court may determine to be fair and equitable, and he shall not in respect of that land have any of the statutory privileges conferred by this Act.

Rent payable for land occupied without consent of landlord.

128. A Court may sit at any place² within the local limits of its jurisdiction, or, in the case of an Assistant Collector, at any place within the limits of the district to which he is appointed.

Place of sitting of Courts.

CHAPTER IX.

LIMITATION OF SUITS.

129. Subject to the provisions as to the legal disability contained in any

General limitation.

¹ For Act 14 of 1882, see the revised edition, as modified up to 1st December, 1899.

² As to places where Board of Revenue may sit, see the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 63, *infra*, p. 410.

(Chapter IX.—*Limitation of Suits.* Secs. 130-134. Chapter X.—*Procedure.* Secs. 135-136.)

law for the limitation of suits for the time being in force in Oudh, all suits under this Act shall, except as otherwise provided in this Act, be instituted within one year from the date of the accrual of the cause of action.

Suits for delivery of pattas or counterparts.

130. A suit for the delivery of a patta or the counterpart of a patta may be instituted at any time during the tenancy.

Suits for recovery of holdings treated as abandoned.

131. A suit by a tenant for the recovery of a holding which has been treated by a landlord as abandoned under section 21 shall be instituted within three months from the date on which the landlord entered upon the holding.

Suits for arrears of revenue or rent or share of profits.

132. A suit for the recovery of an arrear of revenue or rent, or, where rent is payable in kind, for the money-equivalent of rent, or of a share of profits, shall, except in the case mentioned in section 16, be instituted within three years from the last day of the month of Jeth of the Fasli year in which the arrear fell due.

Suits against agents for money, or delivery of accounts or papers.

133. A suit for the recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be instituted at any time during the continuance of the agency or within one year after its determination.

Suits regarding distress and division or appraisal of produce.

134. A suit regarding distress under section 103, 104 or 105, or to set aside an award in respect of a division, estimate, appraisal or proceeding under section 32, shall be instituted within three months from the date of the accrual of the cause of action.

CHAPTER X.

PROCEDURE.

Applications of the Code of Civil Procedure to proceedings under this Act.

135. The provisions of the Code of Civil Procedure¹ as in force in XIV of 1882. Oudh shall, so far as they are not inconsistent with the provisions of this Act, apply to all suits and other proceedings under this Act.

Mode of service of notices.

136. Every notice under this Act shall, if practicable, be served on the person to whom it is addressed or on an agent authorized by him to accept service on his behalf; but, if that person or an agent so authorized cannot be found, service may be made by posting the notice at the usual place of resi-

¹ For Act 14 of 1882, see the revised edition, as modified up to 1st December, 1899.

(Chapter X.—Procedure. Secs. 137-139.)

dence of the person to whom the notice is addressed, or, if that person does not reside in the district wherein the land is situate, at the village-chaupal or other conspicuous place in the village wherein the land is situate.

XIV of 1882.

137. In addition to the particulars required by section 50 of the ¹Code of Civil Procedure to be specified in the plaint, the plaint shall contain the following particulars, namely :—

Contents of plaints.

- (a) the name of the village or estate, and of the pargana in which the land to which the suit relates is situate ;
- (b) if the suit is for recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice of ejectment, or for the recovery of the occupancy or possession of any land, then the extent, situation and designation of the land to which the suit relates and, where fields have been numbered in a Government survey the number (if it is possible to give it) of each field ;
- (c) if the suit is for recovery of an arrear of rent or revenue, then the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear and the time in respect of which it is alleged to be due ;
- (d) if the suit is for the delivery of a patta or the counterpart of a patta, then all the particulars mentioned in section 8.

138. When in any suit between a landlord and an under-proprietor or tenant the right to receive the rent of land is claimed by a third person, on the ground that he, or a person through whom he claims, has actually and in good faith received and enjoyed the rent up to the time of the commencement of the suit, that third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him or the person through whom he claims shall be inquired into, and the suit shall be decided according to the result of the inquiry :

Third person claiming rent to be made a party.

Provided always that the decision of the Court shall not affect the right of any party having a legal right to the rent of the land to establish his title thereto in a Court of competent jurisdiction.

139. In suits under clauses (1), (2), (7), (10) and (11) of section 108, the summons to the defendant shall be for the final disposal of the suit.

Summons to defendant to be for final disposal in certain suits.

¹ For Act 14 of 1882, see the revised edition, as modified up to 1st December, 1899.

Set-off in
suits for
arrears of
rent.

140. In a suit to recover an arrear of rent, no set-off shall be allowed against the claim except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff.

Interest on
arrears of
rent.

141. When an arrear of rent remains due from any tenant, he shall be liable to pay interest on the arrear at the rate of one per cent. per mensem.

Payment of
money into
Court by
defendant.

142. (1) In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiffs' claim, together with the costs incurred by the plaintiff up to the time of the making of the deposit.

(2) Notice of the deposit shall be given to the plaintiff, and the amount deposited shall be paid to him on his application.

(3) From the date of the making of a deposit under this section, interest shall not be allowed to the plaintiff on the sum deposited, whether that sum be in full of the plaintiff's claim or fall short thereof.

Proceeding
for balance
where de-
fendant pays
less than
amount
claimed.

143. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in the last foregoing section shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

Making of
local investi-
gations by
Court.

144. (1) A Court may, if it thinks fit, itself make a local investigation instead of issuing a commission under section 392 of the Code of Civil Procedure.¹ XIV of 1882.

(2) When the Court itself makes a local investigation, the provisions of section 393 of that Code with respect to the recording of evidence shall apply to the Court, and any observations which the Court sees fit to record on its proceedings shall be received as evidence in the suit.

Decrees.

Time for the
making of
applications
for execution.

145. A process of execution shall not be issued on a decree under this Act when the application for the issue of the process is made after the lapse of three years from the date of the decree, unless the decree is for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the law for the time being in force as to the period allowed for the execution of decrees of Civil Courts.

Immediate
execution of
decree.

146. When a decree for money is made in any suit under this Act, the Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in section 256 of the Code of Civil Procedure.¹

XIV of 1882.

¹ For Act 14 of 1882, see the revised edition, as modified up to 1st December, 1899.

(Chapter X.—Procedure. Secs. 147-153.)

147. When a decree in favour of the plaintiff is made in a suit for an enhancement of rent, the Court shall declare the date from which the enhancement shall take effect.

Decree for enhancement to state date of commencement of enhancement.

148. (1) If the decree is for the delivery of papers or accounts, it may be enforced by the imprisonment in the civil jail of the party against whom it is made, or by the attachment of the property, or by both imprisonment and attachment.

Enforcement of decree for delivery of papers or accounts.

(2) The imprisonment and attachment may be continued until the party complies with the terms of the decree :

Provided that he shall not be imprisoned under this section for a longer period than six months.

149. A decree for the delivery of a patta or of the counterpart of a patta shall specify all the particulars mentioned in section 8, and such other particulars in accordance with the provisions of this Act as the Court deems fit.

Decrees for patta or counterpart to specify certain particulars.

150. If the decree is for the delivery of a patta or of the counterpart of a patta, and the party ordered to deliver the patta or counterpart neglects or refuses to do so, the Court may grant a patta or counterpart in conformity with the terms of the decree, and that patta or counterpart shall have the same effect as if delivered by the party against whom the decree was passed.

Grant of patta or counterpart in case of defendant's refusal.

151. If the decree is for money, a process in execution shall not issue against the immoveable property of the judgment-debtor, other than for attachment of that property, unless satisfaction of the decree cannot be obtained against his moveable property.

Execution to be first made against moveable property.

152. If the decree is for an arrear of rent due in respect of an under-proprietary right, the interest of the judgment-debtor in that right may, subject to the provisions of this Act, be sold in execution of the decree.

Sale of under-proprietary right in execution of decree for arrears of rent.

153. A beneficial lease or other incumbrance created by an under-proprietor on his tenure after the twenty-second day of July, 1868, shall not be valid in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless the incumbrance has been registered under any rules or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of those rights and interests.

Registration of incumbrance created by under-proprietor.

(Chapter X.—Procedure. 154-155. Chapter XI.—General. Sec. 156.)

Proprietor's
lien for rent
payable by
under-pro-
prietor.

154. (1) When an under-proprietor creates any such incumbrance and fails to pay to the proprietor all or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer shall be liable to pay to the proprietor the whole or the part of that rent, as the case may be, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this section.

(2) Where after the passing of this Act an under-proprietor transfers his rights or any part thereof in land, and the transferee enters into possession, the transferee shall, subject to any agreement in writing with the proprietor to the contrary, be liable to pay to the proprietor any arrears of rent due in respect of the land at the date of the transfer.

Right of pre-
emption at
execution-
sale.

155. (1) When land is sold in execution of a decree under this Act, and the land or any lot thereof has been knocked down to a stranger, any co-sharer, other than the judgment-debtor, may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was so knocked down.

(2) A like claim may be made, if the land is a proprietary tenure, by an under-proprietor, and, if the land is an under-proprietary tenure, by a proprietor.

(3) Any claim made under this section shall be allowed :

Provided that, if a claim to the same land or lot is made by a proprietor or under-proprietor as well as by a co-sharer, the claim of the co-sharer shall prevail :

Provided also that a claim shall not be allowed unless the claimant fulfils all the conditions of the sale binding on a purchaser.

CHAPTER XI.

GENERAL.

Registration
of statutory
pattas
unnecessary.

156. Notwithstanding anything in the Indian Registration Act, 1877,¹ III of 1877. pattas granted for any term not exceeding seven years by landlords to tenants to whom section 36 or section 37 of this Act applies shall be deemed good and valid without their being registered.

¹ See Act 8 of 1877, as modified up to 1st April, 1900, with footnotes brought down to 1st November, 1902.

(Chapter XI.—General Secs. 157-158. Schedule A.)

157. The provisions of sections 4, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48 shall not extend to the areas specified in Schedule D to this Act, or to any other area which the ¹ Chief Commissioner may from time to time, by notification in the local official Gazette, add to that schedule, but the ¹ Chief Commissioner may from time to time, by like notification, extend those provisions, or any of them, to any of those areas.

Exclusion of specified areas from certain provisions of the Act.

158. (1) The ² [Board, with the previous sanction of the ¹ Chief Commissioner] may, from time to time, make rules ³ consistent with this Act for the guidance of all persons in matters connected with the enforcement of this Act.

Power to make rules.

(2) ¹ [The Board] shall, before making rules under this section, publish a draft of the proposed rules in such manner as, in ⁴ [its] opinion, is sufficient.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) ² [The Board] shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) Every rule made under this section shall be published in the local official Gazette in English and in such other language or languages as the ² [Board, with the previous sanction of the ¹ Chief Commissioner,] directs, and that publication shall be conclusive proof that the rule has been made as required by this section.

SCHEDULE A.*

(See section 15.)

I, A B of , &c., solemnly declare that I did personally [or by my agent C D] on the day of tender

* If this declaration is made by an agent, it must be altered accordingly.

¹ Now Lieutenant-Governor, *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

² The words "Board with the previous sanction of the Chief Commissioner" in sub-sections (1) and (5) of s. 158, were substituted for the words "Chief Commissioner", and the words "The Board" in sub-ss. (2) and (4) for the words "The Chief Commissioner" by s. 60 of the N.-W. P. and Oudh Act, 1890 (20 of 1890), *infra*, p. 410.

³ For rules under s. 158 (1) regulating deposits of rent under s. 15, *see* the United Provinces Gazette, 1902, Pt. I, p. 253, (2) as to appeals and applications, *see ibid.*, Pt. II, pp. 1347 and 1763, (3) as to travelling and other expenses of witnesses, *see ibid.*, 1904, Pt. II, p. 626 and (4) for rules of procedure under the Act, *see* United Provinces Gazette, 1905, Pt. I, p. 860.

⁴ The word "its" in sub-section (2) was substituted for "his" by s. 60 of Act 20 of 1890.

(Schedules B & C.)

payment to *E F* at (the place where the (revenue *or*)
 rent of the lands at , [held *or*] cultivated by me under [*or*
 from *or* jointly with] the said *E F* is usually payable) of the sum of rupees
 as and for the whole amount due from me in respect of the (revenue *or*)
 rent of the said lands from the month of to the month of
 both inclusive. I further declare that the said *E F* refused to accept the said
 sum so tendered [*or* to give me a receipt in full forthwith for the sum so
 tendered]. And I declare that, to the best of my belief, the sum of rupees
 so tendered, and which I now desire to pay into Court, is the full amount
 which I owe to the said *E F* on account of the (revenue *or*) rent of the said
 lands from the month of to the month of
 both inclusive, and that I owe to the said *E F* no further sum on account of
 the (revenue *or*) rent of the said lands.

I, , the person named in the above declaration, do declare that
 what is stated therein is true to the best of my information and belief.

* This is to
 be by endorse-
 ment on a
 copy of the
 declaration
 under Sched-
 ule A made
 by the person
 paying the
 money into
 Court.

SCHEDULE B *

(See section 15.)

Court of the of .
 Dated the day of 18 .
 To *E F* of , &c.

With reference to the within declaration, you are hereby informed that
 the sum of rupees therein mentioned is now in deposit in this Court, and
 that the above sum will be paid to you or your recognized agent on appli-
 cation. And take notice that, if you have any further claim or demand
 whatsoever to make against the said *A B* in respect of the (revenue *or*) rent
 of the said lands, you must institute a suit in Court for the establishment of
 that claim or demand within six calendar months from this date, otherwise
 your claim will be for ever barred.

SCHEDULE C.

(See section 84.)

Office of officer appointed to sell distrained property.

A B.—Distraîner.

Whereas the said *A B* has applied to have the distrained property speci-
 fied below sold for the recovery of alleged to be due to him

1886 : Act XXII.] }
1887 : Act XII.] }

Oudh Rent.

371

(*Schedule D.*)
Civil Courts.

as arrears of rent, you are hereby required either to pay the said sum to the said *A B*, or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which, the property will be sold.

Dated this day of 188 .

SCHEDULE D.

(*See section 157.*)

(1) Parganas Kukra Mailani, Bhur, Srinagar, Nighasan, Palia, Khairigarh, Dhaurahra and Firozabad in the district of Kheri;

(2) alluvial mahals for the time being registered as such under the rules made under clause (b) of section 220 of the Oudh Land-revenue Act, 1876; ¹ XVII of 1876 and

(3) lands heretofore or hereafter granted under the waste-land rules for the time being in force in Oudh.

THE BENGAL, NORTH-WESTERN PROVINCES AND ASSAM CIVIL COURTS ACT, 1887.

C O N T E N T S.

CHAPTER I.

PRELIMINARY.

SECTIONS.

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2. Saving clause.

¹ See now s. 234 of the United Provinces and Oudh Land-revenue Act, 1901 (U. P. 3 of 1901), *infra*, p. 882, Act 17 of 1876 has been repealed by this Act.

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CONSTITUTION OF CIVIL COURTS.

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 4. Number of District Judges and Subordinate Judges.
 5. Number of Munsifs.
 6. Vacancies among District or Subordinate Judges.
 7. Vacancies among Munsifs.
 8. Additional Judges.
 9. Administrative control of Courts.
 10. Temporary charge of District Court.
 11. Transfer of proceedings on vacation of office of Subordinate Judge.
 12. Temporary charge of office of Munsif.
 13. Power to fix local limits of jurisdiction of Courts.
 14. Place of sitting of Courts.
 15. Vacations of Courts.
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 17. Continuance of proceedings of Courts ceasing to have jurisdiction.
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ORDINARY JURISDICTION.

18. Extent of original jurisdiction of District or Subordinate Judge.
 19. Extent of jurisdiction of Munsif.
 20. Appeals from District and Additional Judges.
 21. Appeals from Subordinate Judges and Munsifs.
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22. Power to transfer to Subordinate Judges appeals from Munsifs.
 23. Exercise by Subordinate Judge or Munsif of jurisdiction of District Court in certain proceedings.
 24. Disposal of proceedings referred to in last foregoing section.
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26. Suspension or removal of Judges by Local Government.
27. Suspension of Subordinate Judge by High Court.
28. Suspension or removal of Munsif by High Court.
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30. Appointment and removal of ministerial officers of District Courts.
31. Appointment and removal of ministerial officers of other Courts.*
32. Appointment and removal of ministerial officers on joint establishments.
33. General powers of District Judge.
34. Transfer of ministerial officers.
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CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

36. Power to confer powers of Civil Courts on officers.
37. Certain decisions to be according to Native law.
38. Judges not to try suits in which they are interested.
39. Subordination of Courts to District Court.
40. Application of Act to Provincial Courts of Small Causes.

ACT No. XII OF 1887.¹

(APPLIES TO THE PROVINCE OF AGRA.)

[11th March, 1887.]

An Act to consolidate and amend the law relating to Civil Courts in Bengal, the ² North-Western Provinces and Assam.

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, the ² North-Western Provinces and Assam ; It is hereby enacted as follows :—

¹ For Statement of Objects and Reasons, see Gazette of India, 1881, Pt. V, p. 1455 ; for Preliminary Report of the Select Committee, see *ibid.*, 1886, Pt. V, p. 957 ; and for Final Report see *ibid.*, 1887, Pt. V, p. 55 ; and for Proceedings in Council, see *ibid.*, Supplement, 1881, pp 1132, 1169, 1414 and 1423, Supplement, 1886, p. 1458, and Pt. VI, 1887, pp. 31 and 33.

² Now the "Province of Agra" ; see Proclamation No. 996 P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

(Chapter I.—Preliminary. Secs. 1-2. Chapter II.—Constitution of Civil Courts, Sec. 3.)

CHAPTER I.

PRELIMINARY.

Title, extent
and com-
mencement.

1. (1) This Act may be called the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.

(2) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal, the ¹ Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam, except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts * * * * * ; ² and

(3) It shall come into force on the first day of July, 1887.

Saving clause.

2. (1) [*Repeal of Act VI of 1871 and Act XIX of 1877, section 1.*] *Rep. Act XII of 1891.*

(2) ³* All Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871,⁴ or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published, shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

VI of 1871.

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871,⁴ or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.

VI of 1871.

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

Classes of
Courts.

3. There shall be the following classes of Civil Courts under this Act, namely :—

(1) The Court of the District Judge ;

(2) The Court of the Additional Judge ;

¹ Now Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Part I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

² The words "and except the Jhansi Division" were repealed by s. 9 of the N.-W. P. and Oudh Act, 1890 (20 of 1890), *infra*, p. 405.

³ The word "but" was repealed by the Repealing and Amending Act, 1891 (12 of 1891), General Acts, Vol. VI.

⁴ Act 6 of 1871 was repealed by s. 2 (1) of this Act.

(Chapter II.—Constitution of Civil Courts. Secs. 4-8.)

(3) the Court of the Subordinate Judge; and

(4) the Court of the Munsif.

4. The Local Government may, with the previous sanction of the Governor General in Council, increase¹ or reduce the number of District Judges and Subordinate Judges now fixed.

Number of District Judges and Subordinate Judges.

5. The Local Government may, subject to the control of the Governor General in Council,² alter the number of Munsifs now fixed:

Number of Munsifs.

Provided that, except in the case of Munsifs whose monthly salary does not exceed two hundred and fifty rupees, an increase of the number of Munsifs now fixed shall not be made by the Local Government without the previous sanction of the Governor General in Council.

6. (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government may fill up the vacancy or appoint the Additional District Judges or Subordinate Judges, as the case may be.

Vacancies among District or Subordinate Judges.

(2) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge, for such period as it thinks fit in addition to the functions devolving on him as such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

³7. (1) Whenever the office of Munsif is vacant, or whenever the Local Government increases the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly.

Vacancies among Munsifs.

(2) The Local Government may, after consultation with the High Court and with the previous sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif.

(3) When rules have been made under sub-section (2), a person shall not be nominated under sub-section (1) unless he possesses the qualifications required by the rules.

8. (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may,

Additional Judges.

¹ For notification increasing the number of District and Subordinate Judges, see N.-W. P. and Oudh Gazette, 1891, Pt. I, p. 131.

² For notification establishing new Munsifs, see N.-W. P. and Oudh Gazette, 1880, Pt. I, pp. 221 and 229, and *ibid.*, 1891, p. 131.

³ For rules, see N.-W. P. and Oudh Gazette, 1894, Pt. I, pp. 749 and 780.

Section 7 does not apply to Honorary Munsifs and Benches, see s. 13 of the United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), *infra*, p. 629.

(Chapter II.—Constitution of Civil Courts. Secs. 9-11.)

upon the recommendation of the High Court and with the previous sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.

Administra-
tive control
of Courts.

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

Temporary
charge of
District
Court.

10. (1) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto.

(2) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

Transfer of
proceedings on
vacation of
office of
Subordinate
Judge.

11. (1) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred:

(3) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in

(Chapter II.—Constitution of Civil Courts. Secs. 12-14.)

sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

¹12. (1) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of Munsif, may appoint such person as he thinks fit to act in the office until that person is relieved by a Munsif appointed under section 7 or his appointment is cancelled by the District Judge.

Temporary
charge of
office of
Munsif.

(2) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment.

13. (1) The Local Government may, by notification² in the official Gazette fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

Power to fix
local limits
of jurisdic-
tion of
Courts.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges or to two or more Munsifs, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or Munsif, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more Subordinate Judges, or to one of two or more Munsifs, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub-section (1).

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or Munsif is a Subordinate Judge or Munsif, as the case may be, within the meaning of this section.

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

14. (1) The Local Government may, by notification¹ in the official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held.

Place of sit-
ting of
Courts.

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

¹ Section 12 does not apply to Honorary Munsifs and Benches, see the United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), *infra*, p. 629.

² For notifications under the clauses of this section and s. 14, see the list noted on pp. 101 to 107 of list 4 of the United Provinces List of Local Rules and Orders, Ed. 1904, Vol. I.

(Chapter II.—*Constitution of Civil Courts. Secs. 15-17. Chapter III.—
Ordinary Jurisdiction. Secs. 18-19.*)

Vacations of
Courts.

15. (1) Subject to such orders as may be made by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Civil Courts.

(2) The list shall be published in the local official Gazette.

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

Seals of
Courts.

16. Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government.

Continuance
of proceed-
ings of
Courts ceas-
ing to have
jurisdiction.

17. (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure¹ or in any other XIV of 1882. enactment for the time being in force.

CHAPTER III.

ORDINARY JURISDICTION.

Extent of
original ju-
risdiction of
District or
Subordinate
Judge.

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions of section 15 of the Code of Civil Procedure¹ to XIV of all original suits for the time being cognizable by Civil Courts.

Extent of
jurisdiction
of Munsif.

²19. (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a Munsif extends to all like suits of which the value does not exceed one thousand rupees.

(2) The Local Government may, on the recommendation of the High Court, direct, by notification in the official Gazette, with respect to any Munsif named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification.

¹ For Act 14 of 1882, see the revised edition, as modified up to 1st December 1899.

² Section 19 does not apply to Honorary Munsifs and Benches, see the United Provinces Honorary Munsifs Act. 1896 (U. P. Act 2 of 1896), s.13, *infra*, p. 629.

(Chapter III.—*Ordinary Jurisdiction.* Secs. 20-21. Chapter IV.—*Special Jurisdiction.* Sec. 22.)

¹ 20. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court. Appeals from District and Additional Judges.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

¹ 21. (1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie— Appeals from Subordinate Judges and Munsifs.

(a) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a Munsif shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

CHAPTER IV.

SPECIAL JURISDICTION.

¹ 22. (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of Munsifs. Power to transfer to Subordinate Judges appeals from Munsifs.

¹ As to cases pending in the Jhansi Division on the day on which Pt. I of the N.-W. P. and Oudh Act, 1890 (20 of 1890), came into force, see s. 9 (2) of that Act, *infra*, p. 405.

(Chapter IV.—Special Jurisdiction. Secs. 23-24.) .

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it.

Exercise by Subordinate Judge or Munsif of jurisdiction of District Court in certain proceedings.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

¹ 23. (1) The High Court may, by general or special order, authorize any Subordinate Judge or Munsif to take cognizance of, or any District Judge to transfer to a Subordinate Judge or Munsif under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(2) The proceedings referred to in sub-section (1) are the following, namely :—

(a) proceedings under Bengal Regulation V, 1799,² (*to limit the Interference of the Zillah and City Courts of Dewanny Adawlut in the Execution of Wills and Administration to the Estates of persons dying intestate*) ;.

(b) [proceedings under Act XI. of 1858 or Act IX of 1861;] Rep. by Act VIII of 1890;

(c) [applications for certificates under Act No. XXVII of 1860;] Rep. by Act VII of 1889 ;

(d) proceedings under the Indian Succession Act, 1865,³ and the Probate and Administration Act, 1881,⁴ which cannot be disposed of by District Delegates ; and

(e) references by Collectors under section 322C of the Code of Civil Procedure.⁴

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

Disposal of proceedings referred to in last foregoing section.

¹ 24. (1) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge :

¹ Sections 23 and 24 do not apply to Honorary Munsifs and Benches, see United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), s. 13, *infra*, p. 629.

² *Supra*, p. 17.

³ General Acts, Vols. I and III, respectively.

⁴ For Act 14 of 1882, see the revised edition, as modified up to 1st December, 1899.

(Chapter IV.—*Special Jurisdiction.* Sec. 25. Chapter V.—*Misfeasance.*
Secs. 26-28.)

Provided that an appeal from an order of the Munsif in any such proceeding shall lie to the District Judge.

(2) An appeal from the order of the District Judge on the appeal from the order of the Munsif under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

X of 1887. ¹ 25. The Local Government may, by notification in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or Munsif the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887,² for the trial of suits, cognizable by such Courts, up to such value not exceeding five hundred rupees in the case of a Subordinate Judge or one hundred rupees in the case of a Munsif as it thinks fit, and may withdraw any jurisdiction so conferred.

CHAPTER V.

MISFEASANCE.

26. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government.

27. (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(2) Whenever the High Court suspends a Subordinate Judge under section (1), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit.

28. (1) The High Court may appoint a commission for enquiring into alleged misconduct of a Munsif.

(2) On receiving the report of the result of the enquiry, the High Court may, if it thinks fit, remove or suspend the Munsif.

(3) The provisions of Act No. XXXVII of 1850³ (*for regulating Inquiries into the behaviour of Public Servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

¹ Section 25 does not apply to Honorary Munsifs and Benches, see United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), s. 13, *infra*, p. 629.

² For Act 9 of 1887, see the revised edition, as modified up to 1st December, 1900.

³ General Acts, Vol. I.

Chapter V.—Misfeasance. Sec. 29. Chapter VI.—Ministerial Officers. Secs. 30-32.)

(4) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry.

(5) The High Court may, without appointing a commission, remove or suspend a Munsif.

Suspension
of Munsif
by District
Judge.

29. (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control.

(2) Whenever a District Judge suspends a Munsif under sub-section (1) he shall forth with report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit.

CHAPTER VI.

MINISTERIAL OFFICERS.

Appointment
and removal
of ministerial
officers of
District
Courts.

30. District Judges shall appoint the ministerial officers of their Courts and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary.

Appointment
and removal
of ministerial
officers of
other Courts.

31. (1) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed—

- (a) in the case of an appointment not likely to last, and not lasting, longer than two months, by those Courts, and
- (b) in any other case, by the District Judge.

(2) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

Appointment
and removal
of ministerial
officers on
joint estab-
lishments.

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely :—

- (a) appointments not likely to last, and not lasting, longer than two months shall be made by the Court of highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof; and

¹ Section 31 does not apply to Honorary Munsifs and Benches, see the United Provinces Honorary Munsifs Act, 1896 (U. P. Act 2 of 1896), s. 13, *infra* p. 629.

(Chapter VI.—Ministerial Officers. Secs. 33-35. Chapter VII.—Supplemental Provisions. Sec. 36.)

- (b) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (a) of this section is for the time being charged with the duty of making appointments to fill temporary vacancies.

33. The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control. General powers of District Judge.

34. (1) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court. Transfer of ministerial officers.

(2) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits.

35. Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined. Recovery of fines.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

36. (1) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,— Power to confer powers of Civil Courts on officers.

- (a) any officer in the Chutia Nagpur, Jalpaiguri or Darjiling District, or in any part of the territories administered by the Chief Commissioner of Assam except the district of Sylhet, or,

- (b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the Local Government with the previous sanction of the Governor General in Council.

(2) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive) or sections 27 to 35 (both inclusive) applies to any officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(Chapter VII.—Supplemental Provisions. Secs. 37-38.)

(3) Where, in the territories mentioned in clause (a) of sub-section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a Munsif, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government, delegate his functions under sub-section (2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a Munsif.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction.

Certain
decisions to
be according
to Native
law

37. (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Judges not
to try suits
in which they
are interested.

38. (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

(2) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding or appeal as is referred to in sub-section (1) or sub-section (2) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(4) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure. ¹ XIV of 1882.

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

¹For Act 14 of 1882, see the revised edition, as modified up to 1st December, 1899

(Chapter VII.—Supplemental Provisions. Secs. 39-40.)

Allahabad University.

39. For the purposes of the last foregoing section the presiding officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure,¹ the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge.

40. (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887.²

(2) Save as provided by that Act, the other sections of this Act do not apply to those Courts.

THE ALLAHABAD UNIVERSITY ACT, 1887.

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¹ For Act 14 of 1882, see the revised edition, as modified up to 1st December, 1899.

² For Act 9 of 1887, see the revised edition, as modified up to 1st December, 1900.

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ACT No. XVIII OF 1887.¹(APPLIES TO THE ² UNITED PROVINCES.)

[23rd September, 1887.]

An Act to establish a University at Allahabad.

WHEREAS it has been determined to establish a University at Allahabad ;
It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Allahabad University Act, 1887 ; and
- (2) It shall come into force at once.

Establishment and incorporation of University.

2. (1) A University shall be established at Allahabad, and the Governor General for the time being shall be the Patron of the University.

(2) The University shall consist of a Chancellor, a Vice-Chancellor and such number of Fellows as may be determined in manner hereinafter provided.

¹ For Statement of Objects and Reasons, see *Gazette of India*, 1887, Pt. V, p. 56 ; for Report of the Select Committee, see *ibid.*, Pt. IV, p. 125 ; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 42, 46 and 74.

The Indian Universities Act, 1904 (8 of 1904), is to be deemed to be part of this Act, see s. 2(1) of that Act, *infra*, p. 530.

² The territorial limits of this Act and of the Indian Universities Act, 1904 (8 of 1904), *infra*, p. 530, have been declared to be the United Provinces of Agra and Oudh, the Central Provinces (including Berar) and Ajmer-Marwara and the States included in the Rajputana and Central India Agencies, see *Gazette of India*, 1904, Pt. I, p. 627.

(Secs. 3-4.)

(3) The University shall be a body corporate by the name of the University of Allahabad, having perpetual succession and a common seal, with power to acquire and hold property, moveable or immoveable, to transfer the same, to contract, and to do all other things necessary for or incidental to the purposes of its constitution.

(4) The University shall come into existence on such day¹ as the Local Government may, by notification in the official Gazette, appoint in this behalf.

3. The ² Lieutenant-Governor of the North-Western Provinces for the time being shall be the Chancellor of the University, and the first Chancellor shall be the Honourable Sir Alfred Comyns Lyall, Knight Commander of the Most Honourable Order of the Bath, Knight Commander of the Most Eminent Order of the Indian Empire.

4. (1) The Vice-Chancellor shall be such one of the Fellows as the Chancellor may from time to time appoint in this behalf. Vice-Chancellor.

(2) Except as provided in sub-sections (5) and (4), he shall hold office for two years from the date of his appointment, and on the expiration of his term of office may be re-appointed.

(3) If a Vice-Chancellor leaves India, he shall thereupon cease to be Vice-Chancellor unless the Chancellor otherwise directs.

(4) *The Honourable Sir John Edge, Knight, Queen's Counsel, Chief Justice of the High Court of Judicature for the North-Western Provinces, shall be deemed to have been appointed the first Vice-Chancellor, and his term of office shall, subject to the provisions of sub-section (3), expire on the last day of December, 1889.*

5. [Fellows.] Rep. Section 29, Indian Universities Act, 1904 (VIII of 1904).

¹ The 15th November, 1887—see North-Western Provinces and Oudh Gazette, 1887, Pt. I, p. 465.

² The Lieutenant-Governor of the North-Western Provinces is now the Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902, (7 of 1902), *infra*, p. 527.

(Secs. 8-9.)

6. (1) [*First Fellows.*] *Rep. Section 29, Indian Universities Act, 1904 (VIII of 1904).*

(2) The persons named in Part II of the Schedule shall, *except for the purposes of the second clause of the proviso to section 5, sub-section (1), be deemed to be Fellows appointed under clause (b) of sub-section (1) of section 5 or elected and approved under clause (c) of that sub-section.*

7. (1) [*Vacation of office of Fellow.*] *Rep. Section 29, Indian Universities Act, 1904 (VIII of 1904).*

(2) The Chancellor may, with the consent of not less than two-thirds of the members of the Senate present at a meeting specially convened for the purpose, remove any Fellow * * * * *

(3) If any Fellow leaves India without the intention of returning thereto or is absent from India for more than four years, he shall thereupon cease to be a Fellow.

Honorary
Fellows.

8. Every person who has filled the office of Patron or Chancellor shall be an honorary Fellow of the University, but shall not be a member of the Senate.

Constitution
and powers of
Senate.

9. (1) The Chancellor, Vice-Chancellor and Fellows for the time being shall form the Senate of the University.

(2) The Senate shall have the entire management of, and superintendence over, the affairs, concerns and property of the University, and shall provide for that management and exercise that superintendence in accordance with the rules for the time being in force under this Act.

10 to 15. [*As to meetings, proceedings and functions of Senate, etc.*] *Rep. Section 29, Indian Universities Act, 1904 (VIII of 1904).*

¹ The words "appointed under clause (b) of sub-s. (1) of s. 5 or elected and approved under clause (c) of that sub-section" were repealed by s. 29 of the Indian Universities Act, 1904 (8 of 1904), *infra*, p. 345.

(Secs. 16-20.)

16. (1) The Senate may charge such reasonable fees for entrance into the University and continuance therein, for admission to the examinations of the University, for attendance at any lectures or classes in connection with the University, and for the degrees to be conferred by the University, as may be imposed by the rules for the time being in force under this Act. Power to levy fees.

(2) Such fees shall be carried to a General Fee Fund for the payment of expenses of the University.

17. [Power to make rules.] Rep. Section 23, Indian Universities Act, 1904 (VIII of 1904).

XLV of 1860.

18. (1) Every examiner, officer or servant appointed or remunerated by the Senate shall, for the purposes of the Indian Penal Code, be deemed to be a public servant. Examiners, officers and servants of the Senate to be deemed to be public servants.

(2) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (1), be deemed to include the Senate, and sections 162 and 163 of the Code shall be construed as if the words "or with any member of the Senate of the Allahabad University" were inserted after the words "with any Lieutenant-Governor."

19. It shall be the duty of the Local Government to require that the proceedings of the University shall be in conformity with this Act and the rules for the time being in force thereunder, and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, and may, among other things, annul, by a notification in the official Gazette, any such proceeding which is not in conformity with this Act and those rules. Duty of Local Government to enforce Act and rules.

20. All appointments made under section 4, all elections approved degrees conferred and all rules made shall be notified in the local official Gazette. * * * *2 Notifications in certain cases. *2 all cases. *3

¹ For Act 45 of 1860, see the revised edition, as modified up to 1st April, 1903.

² The words and figures "appointments made and;" "under s. 5, sub-s. (1), clauses (b) and (c)," were repealed by s. 29 of the Indian Universities Act, 1904 (8 of 1904), *infra*, p. 545.

³ The words and figures "under sections 14 and 15" and "under section 17," were repealed by s. 29 of the Indian Universities Act, 1904 (8 of 1904), *infra*, p. 545.

(Sec. 21.)

Annual
accounts
and audit
thereof.

21. (1) The accounts of the income and expenditure of the University shall be submitted once in every year to the Local Government for such examination and audit as that Government may direct.

(2) For the purposes of the examination and audit the auditor appointed by the Local Government may by letter require the production before him of any books, vouchers and other documents which he deems necessary and may require any person holding or accountable for any such books, vouchers or documents to appear before him at the examination and audit or adjournment thereof and to answer all questions which may be put to him with respect thereto or to prepare and submit any further statement which the auditor considers necessary in explanation thereof.

(3) Any person who in the absence of reasonable excuse, the burden of proving which shall lie upon him, refuses or neglects to comply with a requisition under sub-section (2) shall be punished for every such refusal or neglect with fine which may extend to one hundred rupees.

(4) When the auditor has completed the examination and audit, he shall report the result thereof to the Local Government, and that Government may thereupon disallow any payment made contrary to law and surcharge it on the person making or authorizing the making of the illegal payment.

(5) If the amount of a payment so surcharged is not paid, as the Local Government directs, within fourteen days after demand being made therefor, the Secretary of State for India in Council may proceed by suit in any Court of competent jurisdiction to recover the amount from the person on whom the surcharge was made.

(The Schedule.)

THE SCHEDULE.

(See section 6.)

PART I.

[Rep. Section 29, Indian Universities Act, 1904 (VIII of 1904).]

PART II.

Persons to be deemed to have been appointed, or to have been elected and approved, as Fellows under ¹section 5, sub-section (i), clause (b) or clause (c):—

1. The Hon'ble James Wallace Quinton, Bachelor of Arts, Bengal Civil Service, Member of the Board of Revenue of the North-Western Provinces, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University, Additional Member of the Council of the Governor General for making Laws and Regulations Member of the Council of the Lieutenant-Governor of the ² North-Western Provinces and Oudh for making Laws and Regulations.

2. The Hon'ble William Tyrrell, Bachelor of Arts, Bengal Civil Service, Judge of the High Court of Judicature for the North-Western Provinces.

3. The Hon'ble Syed Ahmed, Khan Bahadur, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University, Member of the Council of the Lieutenant-Governor of the ² North-Western Provinces and Oudh for making Laws and Regulations.

4. The Hon'ble Syed Mahmud, Barrister-at-Law, Judge of the High Court of Judicature for the North-Western Provinces.

5. The Hon'ble Pandit Ajudhya Nath, Member of the Council of the Lieutenant-Governor of the ² North-Western Provinces and Oudh for making Laws and Regulations.

¹ This section is now repealed by s. 29 of the Indian Universities Act, 1904 (8 of 1904), *infra*, p. 545.

² Now United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

(The Schedule.)

6. Lieutenant-Colonel John Greenlaw Forbes, of the Royal Engineers, Fellow of the Calcutta University, Joint Secretary to Government, 'North-Western' Provinces and Oudh, in the Public Works Department.

7. Surgeon-Major James Cleghorn, Doctor in Medicine, Civil Surgeon, Lucknow.

8. Raja Shiva Prasada, Companion of the Most Exalted Order of the Star of India.

9. Mortimer Sloper Howell, Esq., Bengal Civil Service, District Judge, ² North-Western Provinces, Companion of the Most Eminent Order of the Indian Empire, Fellow of the Calcutta University.

10. Raja Jai Kishan Das, Bahadur, Deputy Collector, ² North-Western Provinces, Companion of the Most Exalted Order of the Star of India, Fellow of the Calcutta University.

11. Raja Udai Pratab Singh, Taluqdar of Bhinga in the Bahraich District.

12. Brigade-Surgeon Emanuel Bonavia, Doctor in Medicine, Civil Surgeon, Etawah.

13. Mahamahopadhyaya Bapu Deva Shastri, Sanskrit College, Benares, Companion of the Most Eminent Order of the Indian Empire.

14. John C. Nesfield, Esq., Master of Arts, Inspector of Schools, Oudh Division.

15. Kenneth Deighton, Esq., Bachelor of Arts, Inspector of Schools, Rohilkhand Division.

16. William Charles Bennett, Esq., Bengal Civil Service, Secretary to the Government of the ¹ North-Western Provinces and Oudh.

¹ Now "United Provinces of Agra and Oudh," see Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228 and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

² Now Province of Agra, see *ibid*.

(The Schedule.)

17. Michael J. White, Esq., Master of Arts, Principal, Canning College, Lucknow.
18. Alexander Thomson, Esq., Principal, Agra College.
19. Babu Promoda Das Mittra, Honorary Magistrate, Benares.
20. Charles H. Hill, Esq., Barrister-at-Law, Allahabad.
21. William H. Wright, Esq., Bachelor of Arts, Professor of English Literature, Muir Central College, Allahabad.
22. W. N. Boutflower, Esq., Bachelor of Arts, Professor of Mathematics, Muir Central College, Allahabad.
23. Shams-ul-Ulama Maulavi Zaka-ulla, Khan Bahadur, *Emeritus*, Professor of Arabic, Muir Central College, Allahabad.
24. Samuel Alexander Hill, Esq., Bachelor in Science, Professor of Physical Science, Muir Central College, Allahabad, and Meteorological Reporter to the Government.
25. The Reverend John Hewlett, Master of Arts, Principal, London Mission College, Benares.
26. Pandit Lakshmi Shankar Misra, Master of Arts, Professor of Physical Science, Benares College.
27. Theodore Beck, Esq., Bachelor of Arts, Principal, Muhammadan Anglo-Oriental College, Aligarh.
28. Pandit Aditya Ram Bhattacharya, Master of Arts, Professor of Sanskrit, Muir Central College, Allahabad.
29. Munshi Newal Kishore, Lucknow.
30. Babu Bireswar Mittra, Professor of Law, Benares College.
31. Lala Mukand Lal, Rae Bahadur, Honorary Assistant Surgeon to the Viceroy, Lecturer, Medical College, Agra.
32. Babu Ram Saran Das, Master of Arts, Fyzabad.

[This Act was repealed by United Provinces Act 4 of 1906, while this Code was passing through the Press, *see infra*, p. 333.]

ACT No. IX of 1889.¹

(APPLIES TO THE UNITED PROVINCES.)

[29th March, 1889.]

An Act to authorise the imposition of a Patwari-rate in the² North-Western Provinces and Oudh, and make certain provisions respecting Kanungos and Patwaris in those Provinces.

WHEREAS it is expedient to authorise the imposition of a patwari-rate in the² North-Western Provinces and Oudh, and make certain provisions respecting kanungos and patwaris in those provinces; It is hereby enacted as follows:—

Title and
commence-
ment.

1. (1) This Act may be called the North-Western Provinces and Oudh Kanungos and Patwaris Act, 1889; and

(2) It shall come into force on the first day of April, 1889.

Repeal.

2. (1) The Kanungos and Patwaris Act, 1882, is hereby repealed.

XIII of 1882.

(2) But all rules and appointments made and patwaris' circles formed under that Act or any enactment thereby repealed shall, so far as may be, be deemed to have been respectively made and formed under this Act.

Division of
Act into
Parts, and
local extent
of the several
Parts.

3. (1) The remainder of this Act is divided into Parts as follows, namely:—

Part I.—³ North-Western Provinces.

Part II.—Oudh.

Part III.—² North-Western Provinces and Oudh.

(2) Part I extends to the³ North-Western Provinces, Part II to Oudh, and Part III to the² North-Western Provinces and Oudh.

¹ For Statement of Objects and Reasons, *see Gazette of India*, 1889, Pt. V, p. 37; for Report of the Select Committee, *see ibid.*, p. 81; and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 23, 31, 61 and 89.

² Now Province of Agra and Oudh, *see* Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India* 902, Pt. I, p. 228 and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ Now the Province of Agra, *see ibid.*

(This Act was repealed by United Provinces Act 4 of 1906 while this Code was passing through the Press, *see infra* p. 583.)

PART I.

¹ NORTH-WESTERN PROVINCES.

4. In this Part, unless there is something repugnant in the subject or context,— Definitions.

(1) "land" means land used for agricultural purposes, or waste-land which is culturable :

(2) "estate" means the whole or any part of a village separately assessed to land-revenue or separately exempt from the payment thereof :

(3) "landlord" means the person responsible for the payment of the land-revenue, if any, assessed on an estate, whether as owner, mortgagee-in-possession or otherwise, and includes a muafidar, nazranadar or other person holding land whereof the revenue has, either wholly or in part, been released, compounded for, redeemed or assigned :

(4) "tenant," used with reference to any land, means a tenant holding directly from the landlord of such land, and includes an under-proprietor of such land and a person bound to pay or deliver anything to such landlord in respect of the use or occupation of such land :

(5) "annual value" means,—

(1) where the settlement of the land-revenue of an estate is liable to periodical revision, double the amount of the land-revenue for the time being assessed on the estate, and

(2) where such settlement is not liable to such revision, or where the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue :

(6) "rent" means whatever is payable to a landlord by a tenant on account of the use or occupation of land by the tenant : and

¹ Now the Province of Agra, *see* Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228 and the United Provinces (Designation) Act, 1902 (7 of 1905), *infra*, p. 527.

¹ The Act was repealed by United Provinces Act 14 of 1936, while this Code was passing through the Press, *see supra*, p. 333.]

(7) "year" means the year commencing on the first day of April.

Patwari-rate.

5. (1) Every estate shall be liable to the payment of such rate, not exceeding two per cent. on its annual value, as the Local Government imposes,¹ for the purpose of defraying the salaries of patwaris and supervisor-kanungos, and any charges incurred for the supervision, maintenance and correction of patwaris' records and papers, including charges incurred in the preparation of village-maps.

(2) Such rate, hereinafter referred to as the patwari-rate, shall be payable by the landlord independently of, and in addition to, any land-revenue assessed on the estate and any rate or cess leviable under, or recognised by, the North-Western Provinces Local Rates Act, 1878,² and any sum due on account of the patwari-rate shall be recoverable as if it were an arrear of land-revenue due in respect of the estate. III of 1878.

(3) The Local Government may, by notification in the official Gazette,—

(a) prescribe by what instalments, and at what times and places, the patwari-rate is to be paid, and by whom it is to be assessed and collected ;

(b) fix the periods³ for which, in the cases referred to in clause (2) of the definition of the expression "annual value" in section 4, assessments to the patwari-rate are to have effect ;

(c) determine the⁴ cases in which, the conditions subject to which, and the officers to or by whom, orders with respect to the assessment or collection of the patwari-rate are to be appealable or subject to revision ; and

(d) exempt any portion of the⁵ North-Western Provinces from the operation of this Part, or exempt any estate from liability to pay the whole or any part of the patwari-rate, and cancel such exemption.⁶

¹ For notification imposing a 2 per cent. rate on all estates in the Province of Agra, *see* N.-W. P. and Oudh Gazette, 1889, Pt. I, pp. 131 and 306.

² *Supra*, p. 213.

³ For notification fixing the period, *see* N.-W. P. and Oudh Gazette, 1889, Pt. I, p. 485.

⁴ For notification, *see* N.-W. P. and Oudh Gazette, 1889, Pt. I, p. 485.

⁵ Read now "Province of Agra," *see* Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

⁶ For notification of exemptions, *see* those noted on pp. 109 and 110 of list 4 of the United Provinces List of Local Rules and Orders, Ed. 1904, Vol. I.

[This Act was repealed by United Provinces Act 4 of 1906, while this Code was passing through the Press, *see infra*, p. 983.]

6. (1) There shall be formed for the ¹North-Western Provinces a fund, North-Western Provinces to be called the ²North-Western Provinces Patwari Fund, and there shall be placed to the credit thereof—
Patwari Fund.

(a) the proceeds of the patwari-rate, and

(b) a contribution, to be made thereto each year, of such sum as the Local Government may allot from the general revenues at its disposal.

(2) The fund so formed shall be exclusively applicable to the purpose mentioned in sub-section (1) of the last foregoing section.

(3) An account of the fund shall be published annually by the Local Government in the official Gazette.

7. (1) The landlord of any land in respect of which the patwari-rate is for the time being payable shall be entitled to recover from the tenant of the land such a cess as is hereinafter mentioned, that is to say,—
Payment of patwari-cess to payer of patwari-rate.

(a) if the rent of the tenant is payable in money, then a cess on such rent at the rate of two pies for every rupee thereof, or

(b) if the land is held rent-free or rent in respect thereof is payable in kind or in service, then a cess equivalent as nearly as may be to one per cent. of the rent in money which would on a reasonable assessment be payable in respect of the land.

(2) The cess in respect of such land as is described in clause (b) of sub-section (1) shall be computed, and be payable, in such manner as the Local Government may by general or special rules ³ in this behalf prescribe.

8. Suits for the recovery of any sum on account of the patwari-rate, or or the recovery of the cess mentioned in the last foregoing section or the Recovery of rate or cess through Revenue Courts.

¹ Now Province of Agra, *see* Proclamation No. 996-P., dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228 and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

² Read "now Agra Patwari Fund," *see* United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ For notification fixing the assessment on rent-free land, *see* N.-W. P. and Oudh Gazette, 1889, Pt. I, p. 265.

[This Act was repealed by United Provinces Act 4 of 1906, while this Code was passing through the Press, *see infra*, p. 863.]

money equivalent of such cess, and appeals and other proceedings arising out of such suits, shall be cognizable as if such suits had been included among the suits mentioned in section 93 of the North-Western Provinces Rent XII of 1881. Act, 1881¹.

PART II.

ORDER.

Definitions.

9. In this Part, unless there is something repugnant in the subject or context,—

(1) "land" means land assessed to land-revenue and includes land of which the revenue has been wholly or in part released, compounded for, redeemed or assigned :

(2) "estate" means the whole or any part of a village separately assessed to land-revenue or separately exempt from the payment thereof :

(3) "landholder" means the person in receipt of the rent of any land whether as owner, mortgagee-in-possession or otherwise, and includes an under-proprietor with whom a sub-settlement has been made of the whole village in which the land is situated :

(4) "tenant" means the person holding directly from the landholder, and includes an under-proprietor of land, not being an under-proprietor with whom a sub-settlement has been made of the whole village in which the land is situated :

(5) "annual value" means—

(1) where the settlement of the land-revenue of an estate is liable to periodical revision, double the amount of the land-revenue assessed on the estate, and

(2) where such settlement is not liable to periodical revision, or where the land-revenue or a portion thereof has been released, compounded for, redeemed or assigned, double the amount which,

¹ See now s. 167 of the Agra Tenancy Act, 1901 (U. P. Act 2 of 1901), *infra*, p. 748.

[This Act was repealed by United Provinces Act 4 of 1900, while this Code was passing through the Press, *see infra*, p. 933.]

if the settlement were liable to periodical revision, would, but for such non-liability, release, composition, redemption or assignment, be assessable as land-revenue.

(6) "rent" means whatever is payable to a landholder by a tenant on account of the use or occupation of land by the tenant: and

(7) "year" means the year commencing on the first day of April.

10-12. [*As to Patwaris and Kamungos.*] *Rep. United Provinces Land-revenue Act, 1889 (U. P. Act 3 of 1901)*

13. (1) Every estate shall be liable to the payment of such¹ rate, not Patwari-rate, exceeding one-and-a-half per cent. on its annual value, as the Local Government imposes, for the purpose of defraying the salaries of patwaris and supervisor-kamungos and any charges incurred for the supervision, maintenance and correction of patwaris' records and papers, including charges incurred in the preparation of village maps.

(2) Such rate, hereinafter referred to as the patwari-rate, shall be payable by the landholder independently of, and in addition to, any land-revenue assessed on the estate and any rate or cess leviable under, or recognised by, the Oudh Local Rates Act, 1878,² and any sum due on account of the patwari-rate shall be recoverable as if it were an arrear of land-revenue due in respect of the estate.

(3) The Local Government may, by notification in the official Gazette,—

(a) prescribe by what instalments, and at what times and places, the patwari-rate is to be paid, and by whom it is to be assessed and collected;

(b) fix the³ periods for which, in the cases referred to in clause (2) of the definition of the expression "annual value" in section 9, assessments to the patwari-rate are to have effect;

(c) determine the⁴ cases in which the conditions subject to which, and the officers to or by whom, orders with respect to the assessment or collection of the patwari-rate are to be appealable or subject to revision; and

¹ For notification fixing the rate and instalments by which the rate shall be paid, *see* N.-W. P. and Oudh Gazette, 1889, Pt. I, p. 131.

² Repealed by the Oudh Local Rates Act, 1894 (U. P. Act 5 of 1894), *infra*, p. 623.

³ For notification fixing the period in permanently settled villages, *see* N.-W. P. and Oudh Gazette, 1892, Pt. I, p. 403.

⁴ For notification, *see* N.-W. P. and Oudh Gazette, 1891, Pt. I, p. 374.

[This Act was repealed by United Provinces Act 4 of 1906, while this Code was passing through the Press, *see infra*, p. 963.]

(d) exempt¹ any portion of Oudh from the operation of this Part, or exempt any estate from liability to pay the whole or any part of the patwari-rate, and cancel such exemption.

Oudh Patwari
Fund.

14. (1) There shall be formed for Oudh a fund to be called the Oudh Patwari Fund, and there shall be placed to the credit thereof—

(a) the proceeds of the patwari-rate, and

(b) a contribution, to be made thereto every year, of such sum as the Local Government may allot from the general revenues at its disposal.

(2) The fund so formed shall be exclusively applicable to the purpose mentioned in sub-section (1) of the last foregoing section.

(3) An account of the fund shall be published annually by the Local Government in the official Gazette.

Payment of
patwari-cess
to payer of
patwari-rate.

15. The landholder of any land in respect of which the patwari-rate is for the time being payable shall be entitled to recover from the tenant of the land such a cess as is hereinafter mentioned, that is to say,—

(a) if the rent of the tenant is payable in money, then a cess on such rent at the rate of one-and-a-half pies for every rupee thereof, or

(b) if the land is held rent-free or rent in respect thereof is payable in kind or service, then a cess equivalent as nearly as may be to three-fourths of one per cent. of the rent in money which would on a reasonable assessment be payable in respect of the land.

(2) The cess in respect of such land as is described in clause (b) of sub-section (1) shall be computed, and be payable, in such manner as the Local Government may by general or special rules² in this behalf prescribe.

Recovery of
rate or cess
through
Revenue
Courts.

16. Suits for the recovery of any sum on account of the patwari-rate, or for the recovery of the cess mentioned in the last foregoing section or the money-equivalent of such cess, and appeals and other proceedings arising out of such suits, shall be cognizable as if such suits had been included among the suits mentioned in section 108,³ [clause (2)] of the Oudh Rent Act, 1886⁴.

XXII of 1886.

¹ For notifications exempting revenue-free holdings, and grove lands in such holdings, *see* N.-W. P. and Oudh Gazette, 1892, Pt. I, p. 404, and *ibid.*, 1893, Pt. I, p. 223, respectively.

² For rules as to assessment of rent-free lands, *see* N.-W. P. and Oudh Gazette, 1889, Pt. I, p. 265.

³ This word and figure were inserted by the N.-W. P. and Oudh Act, 1890 (20 of 1890), s. 61, *infra*, p. 410.

⁴ *Supra*, p. 356.

[The Kanungo and Patwari Funds were repealed by United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.]

North-Western Provinces and Oudh.

17. [*Character of kanungos and patwaris and their records.*] *Rep. United Provinces Land-revenue Act, 1901 (U. P. Act 3 of 1901).*

PART III.

¹ NORTH-WESTERN PROVINCES AND OUDH.

18. The contributions to be made by the Local Government to the ² North-Western Provinces Patwari Fund and the Oudh Patwari Fund under sections 6 and 14 shall not, without the previous sanction of the Governor General in Council, amount in the aggregate in any year to a smaller sum than ten lakhs of rupees.

Contributions of the Government to the Patwari Funds.

19. [*Obligation to furnish information necessary for the preparation of records.*] *Rep. United Provinces Land-revenue Act, 1901 (U. P. Act 3 of 1901).*

THE NORTH-WESTERN PROVINCES AND OUDH ACT, 1890.

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8. Jhansi Division to cease to be a scheduled district.

9. Application of Act XII of 1887 to Jhansi and disposal of pending cases.

¹ Now "United Provinces of Agra and Oudh", *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 902, Pt. I, p. 223, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

² Read now "the Agra Fund", *see* United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

SECTIONS.

PART II.

OUDH.

10. Commencement of Part II.
11. Board of Revenue of the North-Western Provinces to be the Board of Revenue of, and Chief Revenue-authority in, Oudh.
- 12 to 37. [*Repealed.*]
38. Amendment of section 3 (7), Act I of 1879, and section 7, Act III of 1879.
39. Amendment of section 17, Act XIII of 1879.
40. New section substituted for section 18.
41. Amendment of section 24.
42. Amendment of section 27.
43. [*Repealed.*]
44. Amendment of section 3, Act XXII of 1886.
45. Amendment of section 32.
46. Amendment of section 108.
47. Amendment of section 109.
48. [*Repealed.*]
49. New section substituted for section 116.
50. [*Repealed.*]
51. Amendment of section 118, Act XXII of 1886.
52. New section substituted for section 119.
53. New sections inserted after section 119.
54. Pending appeals.
55. New section inserted after section 120, Act XXII of 1886.
56. [*Repealed.*]
57. Amendment of section 123, Act XXII of 1886.
58. Amendment of section 124.
59. Sections inserted after section 124.
60. Amendment of section 158.
61. Amendment of section 16, Act IX of 1889.

PART III.

THE NORTH-WESTERN PROVINCES AND OUDH.

62. Commencement of Part III.
63. Place where the Board may sit.
64. [*Repealed.*]

(Sec. 1. Part I.—*The North-Western Provinces. Sec. 2.*)ACT No. XX OF 1890 ¹.

(APPLIES TO THE UNITED PROVINCES.)

[16th October, 1890.]

An Act to provide for the better administration of the ² North-Western Provinces and Oudh and to amend certain enactments in force in those Provinces and in Oudh.

WHEREAS it is expedient to provide for the better administration of the ² territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, and for that purpose to amend certain enactments which are in force in the said Provinces and in Oudh; It is hereby enacted as follows :—

1. This Act may be called the North-Western Provinces and Oudh Title Act, 1890.

PART I.

THE NORTH-WESTERN PROVINCES. ³

2. This Part shall come into force on such day ⁴ as the said Lieutenant-Governor may, by notification in the official Gazette, direct.

Commence-
ment of
Part I.

3, 4. [*Amendment of Act XIX of 1873.*] *Rep. United Provinces Land-revenue Act, 1901 (U. P. Act III of 1901).*

And whereas it has been determined to annex the Jhansi Division, comprising the districts of Jhansi, Jalaun and Lalatpur, to the Allahabad Division ;

¹ For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 121; for Report of the Select Committee, see *ibid.*, p. 135; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 17 and 138.

² Now the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

³ Read now the Province of Agra, see Act 7 of 1902, s. 2.

⁴ The 1st April, 1891, see North-Western Provinces and Oudh Gazette, 1891, Pt. I, p. 130.

(Part I.—The North-Western Provinces. Secs. 5-8.)

And whereas the said Jhansi Division is a scheduled district under the XIV of 1874. Scheduled Districts Act, 1874¹;

And whereas it is expedient that the law in force in the said division should, on such annexation, be the same as the law in force in the temporarily-settled districts comprised in the Allahabad Division, and that the said division should cease to be a scheduled district ;

It is hereby enacted as follows :—

Laws in force in certain districts of the Allahabad Division to apply to Jhansi.

5. (1) All enactments which shall on the day² when this Part comes into force be in force in the said temporarily-settled districts and not in the said Jhansi Division shall be deemed to come into force in that division on and from the said day.

(2) Except the Jhansi Encumbered Estates Act, 1882³ and the XVI of 1882. Jhansi and Morar Act, 1886,⁴ all enactments which shall on the said day² be in force in the said division and not in the said temporarily-settled districts, including the Jhansi Courts Act, 1867, and Act No. XXVII of 1867, shall be deemed to be repealed on and from the said day² in the said division. XVIII of 1867.

6. [Amendment of Act XVI of 1882.] Rep. Bundelkhand Encumbered Estates Act, 1903 (United Provinces Act I of 1903).

Discharge of functions assigned to Deputy Commissioner and Commissioner by Act XVII of 1886.

7. The functions assigned to the Deputy Commissioner and the Commissioner by the Jhansi and Morar Act, 1886,⁴ shall be discharged by the XVII of 1886. District Judge and the High Court, respectively, and references to Courts in the Jhansi District subordinate to the Commissioner shall be deemed to apply to the Civil Courts established in that district under the Bengal, XII of 1887. North-Western Provinces and Assam Civil Courts Act, 1887.

Jhansi Division to cease to be a scheduled district.

8. (1) On and from the said day² the said division shall cease to be a scheduled district ; and in Part IV of the first schedule to the Scheduled Districts Act, 1874,¹ and in Part IV of the sixth schedule to the Laws XIV of 1874. Local Extent Act, 1874,⁵ the words “the Jhansi Division comprising XV of 1874. the Districts of Jhansi, Jalaun and Lalatpur,” shall be repealed.

¹ General Acts, Vol. II.

² That is, the 1st April, 1891.

³ Now repealed by the Bundelkhand Encumbered Estates Act, 1903 (1 of 1903), *infra*, p. 889.

⁴ *Supra*, p. 310.

⁵ General Acts, Vol. II.

(Part I.—The North-Western Provinces. Sec. 9.)

XVII of 1886. (2) Section 4 of the Jhansi and Morar Act, 1886¹, and the last paragraph of the preamble to Part I of that Act, ending with the words “ the Jhansi District,” shall also be repealed.

XII of 1887. 9. (1) In section 1, sub-section (2), of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, the words “ and except the Jhansi Division ” shall be repealed.

Application of Act XII of 1887 to Jhansi, and disposal of pending cases.

(2) All cases or proceedings pending in any Civil Court in the said division on the said day² shall be disposed of as follows :—

- (a) if pending in the Court of a Tahsildar or of an Assistant Commissioner of the second class—by the Munsif ;
- (b) if pending in the Court of an Assistant Commissioner of the first class—by the Subordinate Judge ;
- (c) if pending in the Court of a Deputy Commissioner—by the District Judge ;
- (d) if pending in the Court of the Commissioner—by the District Judge, unless the case pending is an appeal from a decree or order of the Deputy Commissioner, in which case the appeal shall be disposed of by the High Court.

XII of 1887. (3) For the purposes of sections 20 to 22, both inclusive, of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, all decrees and orders passed by Civil Courts in the said division and not appealed against before the said day² shall be deemed—

- (a) if passed by the Court of a Tahsildar or an Assistant Commissioner of the second class—to have been passed by a Munsif ;
- (b) if passed by the Court of an Assistant Commissioner of the first class—to have been passed by a Subordinate Judge ;
- (c) if passed by the Court of a Deputy Commissioner or the Commissioner—to have been passed by a District Judge.

(4) Where any Civil Court ceases by reason of the passing of this Act to have jurisdiction with respect to any case, any proceeding in relation to

¹ *supra*, p. 310.

² That is, the 1st April, 1891.

(Part II.—Oudh. Secs. 10-11.)

that case which, if that Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court to which the business of the former Court is transferred by sub-section (2) ; but this sub-section shall not apply to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure.¹ XIV of 1882.

(5) In the case of appeals from the decrees and orders mentioned in sub-section (3) the period of limitation shall be calculated in accordance with the provisions of section 15 of the Jhansi Courts Act, 1867,² as though this Act had not been passed. XVIII of 1867.

PART II.

OUDH.

Commence-
ment of Part
II. 10. This Part shall come into force on such day³ as the Chief Commissioner of Oudh may, by notification in the official Gazette, direct.

Board of Re-
venue of the
North-West-
ern Provinces
to be the
Board of Re-
venue of, and
Chief Re-
venue authority
in, Oudh. 11. (1) On and from the day on which this Part comes into force the Board of Revenue constituted under the North-Western Provinces Land Revenue Act, 1873,⁴ shall be deemed to be also the Board of Revenue for the territories administered by the Chief Commissioner of Oudh,⁵ and shall be known and designated as the Board of Revenue of the⁶ North-Western Provinces and Oudh. XIX of 1873.

(2) All references made in any enactment as amended by this Part to the Board of Revenue shall be deemed, so far as they relate to Oudh, to refer to the said Board.

(3) In any enactment for the time being in force in the territories administered by the⁵ Chief Commissioner of Oudh, in which the expression

¹ For Act 14 of 1882, see the revised edition, as modified up to 1st December, 1899.

² Act 18 of 1867 is repealed by s. 5 (2) of this Act.

³ The 1st January, 1891—see North-Western Provinces and Oudh Gazette, 1890, Pt. I, p. 661.

⁴ Since repealed by the United Provinces Land Revenue Act, 1901 (U. P. Act 3 of 1901), s. 2, *infra*, but not so as to affect anything done under the Act of 1873—see s. 8.

⁵ The Chief Commissioner of Oudh is now Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

⁶ Now United Provinces of Agra and Oudh, see Proclamation No. 996-P., of the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), s. 2, *infra*, p. 527.

(Part II.—Oudh. Sec. 11.)

“Chief Revenue-authority” or “Chief Controlling Revenue-authority” is used, the expression shall, subject to the provisions of any enactment passed after the said day,¹ be construed, so far as the said territories are concerned, as referring to the Board of Revenue of the² North-Western Provinces and Oudh.

12 to 16. [*Amending Act 17 of 1876.*] *Rep. United Provinces Land-revenue Act, 1901 (U. P. Act III of 1901).*

17. [*Repeal of part of section 14, Act XVII of 1876.*] *Rep. Act XII of 1891.*

18 to 21. (1) [*Amending Act 17 of 1876.*] *Rep. United Provinces Land-revenue Act, 1901 (U. P. Act III of 1901).*

(2) [*Repeal of part of section 4, Act XIV of 1878.*] *Rep. Act XII of 1891.*

22 to 27. [*Amending Act of 1876.*] *Rep. United Provinces Land-revenue Act, 1901 (U. P. Act III of 1901).*

28 to 31. [*Amending Act 17 of 1876.*] *Rep. United Provinces Court of Wards Act, 1899 (U. P. Act III of 1899).*

32 to 34. [*Amending Act 17 of 1876.*] *Rep. United Provinces Land-revenue Act, 1901 (U. P. Act III of 1901).*

35. [*Repeal of part of section 5, Act XIV of 1878, repeal of section 45 and amendment of the second schedule of Act XVIII of 1876.*] *Rep. Act XII of 1891.*

¹ The 1st January, 1891—see North-Western Provinces and Oudh Gazette, 1890, Pt. I, p. 661.

² Now United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

(Part II.—Oudh. Secs. 38-44)

36 and 37. [*Amending Act IV of 1878.*] *Rep. Oudh Local Rates Act, 1894 (U. P. Act V of 1894).*

Amendment of section 7, Act III of 1879. 38. * * * * * In section 7 of the Destruction of Records Act, 1879², after the words "the North- Western Provinces" the words "and the Chief Commissioner of Oudh" shall be inserted. III of 1879.

Amendment of section 17, Act XIII of 1879. 39. In section 17 of the Oudh Civil Courts Act, 1879, ⁴ after the words "Civil Procedure, section fifteen," there shall be inserted the words "and of any other enactment for the time being in force"; and there shall be substituted for the words "five hundred rupees" in clause (c) of the same section the words "one thousand rupees," and for the proviso to the same section the following, namely:— XIII of 1879.

[*Supra*, p. 236.]

New section substituted for section 18. 40. For section 18 of the same Act the following shall be substituted, namely:—

[*Supra*, p. 237.]

Amendment of section 24. 41. In section 24 of the same Act, for the words "fifty rupees" the words "one hundred rupees" shall be substituted.

Amendment of section 27. 42. In section 27 of the same Act, for the words "Judicial Commissioner" the words "District Judge" shall be substituted.

43. [*Amendment of sections 3 and 10, Act XXII of 1881.*] *Rep. Excise Act, 1896 (XII of 1896).*

Amendment of section 3, Act XXII of 1886. 44. (1) In section 3 of the Oudh Rent Act, 1886, after clause (1) there shall be inserted the following, namely:— XXII of 1886.

[*Supra*, p. 324.]

(2) For clause (13) of the same section the following shall be substituted, namely:—

[*Supra*, p. 325.]

¹ The words "In section 3, clause (7), of the Indian Stamp Act, 1879, and " were repealed by the Indian Stamp Act, 1899 (2 of 1899), General Acts, Vol. VII.

² General Acts, Vol. III.

³ This title now merges in that of the Lieutenant-Governor of the United Provinces of Agra and Oudh, *see* Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

⁴ *Supra*, p. 236.

(Part II.—Oudh. Secs. 45-54.)

45. In section 32, sub-section (2), of the same Act, for the words "one month" the words "three months" shall be substituted.

Amendment
of section
32, Act
XXII of
1886.

46. To section 108 of the same Act, before the words "Courts other than" there shall be prefixed the words "except in the way of appeal as hereinafter provided."

Amendment
of section
108.

47. In section 109, clause (5), of the same Act, for the words "the Judicial Commissioner" the words "the Board" shall be substituted.

Amendment
of section
109.

48. [Repeal of part of section 115, Act XXII of 1886.] Rep. Act XII of 1891.

49. For section 116 of the same Act the following shall be substituted, namely :—

New section
substituted
for section
116.

[*Supra*, p. 359.]

50. [Repeal of section 117, Act XXII of 1886.] Rep. Act XII of 1891.

51. In section 118, sub-section (1), clause (c.), of the same Act, for the words "to the Judicial Commissioner" the words "to the Board" shall be substituted.

Amendment
of section
118.

52. For section 119 of the same Act the following shall be substituted, namely :—

New section
substituted
for section
119.

[*Supra*, p. 360.]

53. After section 119 of the same Act the following shall be inserted, namely :—

New sections
inserted after
section 119.

[*Supra*, p. 360.]

54. All appeals pending when this Part comes into force¹ from decrees or orders passed under the same Act shall be disposed of as if this Act had not been passed :

Pending
appeals.

Provided that the² Chief Commissioner may, by order, transfer to the District Judge any appeals then pending before the Commissioner or Collector in cases in which the appeal will, under the Oudh Rent Act, 1886,³ as amended by this Part, lie to the District Judge.

¹ i. e., the 1st January, 1891.

² Now "Lieutenant-Governor of the United Provinces of Agra and Oudh," see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ *Supra*, p. 323.

(Part II.—Oudh. Secs. 55-61. Part III.—The North-Western Provinces and Oudh. Secs. 62-63.)

New section inserted after section 120, Act XXII of 1886. 55. After section 120 of the same Act the following shall be inserted, namely :—

[*Supra*, p. 361.]

56. [*Repeal of part of section 122, Act XXII of 1886.*] *Rep. Act XII of 1891.*

Amendment of section 123.

57. In section 123 of the same Act there shall be substituted for the words "The Judicial Commissioner" the words "The Board or the Commissioner", for the words "subordinate to him" the words "subordinate to the Board or the Commissioner," and for the words "competent to dispose of it" the words "competent as regards the nature of the case to dispose of it."

Amendment of section 121.

58. In section 124 of the same Act, for the words "the Chief Commissioner" in each place where they occur the words "the Board" shall be substituted.

Sections inserted after section 124.

59. After section 124 of the same Act the following sections shall be inserted, namely :—

[*Supra*, p. 362.]

Amendment of section 158.

60. In section 158 of the same Act there shall be substituted for the words "Chief Commissioner" in sub-sections (1) and (5) the words "Board, with the previous sanction of the Chief Commissioner," and for the words "The Chief Commissioner" in sub-sections (2) and (4) the words "The Board," and for the word "his" in sub-section (2) the word "its".

Amendment of section 16, Act IX of 1883.

61. In section 16 of the ¹ North-Western Provinces and Oudh Kanungos IX of 1889, and Patwaris Act, 1889, there shall be inserted after the word and figures "section 108" the word and figure "clause (2)."

PART III.

THE NORTH-WESTERN PROVINCES AND OUDH. ²

Commencement of Part III.

62. This part shall come into force on such day ³ as the ²Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh may, by notification in the official Gazette, direct.

Place where the Board may sit.

63. (1) Notwithstanding anything * * * * * in section 123 of the Oudh Rent Act, 1886, ⁵ the Board of Revenue of the North-Western XXII of 1886.

¹ *Supra*, p. 400.

² Now the Province of Agra, and Lieutenant-Governor of the United Provinces of Agra and Oudh, respectively—see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ The 1st January, 1891—see North-Western Provinces and Oudh Gazette, 1890, Pt. I, p. 661.

⁴ S. 63, so far as it relates to Act 12 of 1881, that is the words "section 152 of the North-Western Provinces Rent Act, 1881" were repealed by the Agra Tenancy Act, 1901 (U. P. Act 2 of 1901), *infra*, p. .

⁵ *Supra*, p. 363.

Easements.
(Sec. 1.)

Provinces and Oudh ¹ shall, for the disposal of cases under those Acts, sit in such place or places in the ¹North-Western Provinces or Oudh as the said ² Lieutenant-Governor and Chief Commissioner may, by notification in the official Gazette, ³ appoint in respect to cases under either of those Acts.

(2) For the disposal of cases other than those referred to in sub-section (1) the said Board may, subject to the orders of the said ² Lieutenant-Governor and Chief Commissioner, sit in any place in the ¹ North-Western Provinces or Oudh that the Board thinks fit.

64. [Amendment of section 4, Act XIX of 1873.] *Rep. Agra and Oudh Land-revenue Act, 1901 (U. P. Act III of 1901).*

ACT No. VIII OF 1891. ⁴

(APPLIES TO THE UNITED PROVINCES.)

[6th March, 1901.]

An Act to extend the Indian Easements Act, 1882, ⁵ to certain areas in which that Act is not in force.

V of 1882.

WHEREAS it is expedient to extend the Indian Easements Act, 1882, ⁵ to certain areas in which that Act is not in force; It is hereby enacted as follows :—

V of 1882.

1. The Indian Easements Act, 1882, ⁵ is hereby extended to the territories respectively administered by the Governor of Bombay in Council and the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh. ⁶

Extension of Act V, 1882, to Bombay and the North-Western Provinces and Oudh.

¹ Now United Provinces of Agra and Oudh and the Province of Agra and Oudh, respectively, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

² Read now " Lieutenant-Governor " —see Act 7 of 1902.

³ For notification declaring that the Board of Revenue may sit at the head-quarters of any district of the United Provinces, see North-Western Provinces and Oudh Gazette, 1890, Pt. I, p. 661.

⁴ For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 1; for Report of the Select Committee, see *ibid*, Pt. V, p. 18; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 2 and 35.

⁵ *Supra*, p. 257.

⁶ These territories are now known as the United Provinces of Agra and Oudh, and the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, as the Lieutenant-Governor of these Provinces, see Proclamation No. 996-P., dated 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

(Secs. 1-4.)

ACT No. XIV OF 1891. ¹

(APPLIES TO THE PROVINCE OF OUDH.)

[21st March, 1891.]

An Act to amend the constitution of the Court of the Judicial Commissioner of Oudh, and alter the Law with respect to Second Appeals and other matters in that Province.

WHEREAS it is expedient to amend the constitution of the Court of the Judicial Commissioner of Oudh, and alter the law with respect to second appeals and other matters in that province; It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Oudh Courts Act, 1891.

(2) It extends to all the territories for the time being administered by the Chief Commissioner of Oudh * * * * *

2. [Repeals, etc.] *Rep. Act XVI of 1897.*

Definitions.

3. In this Act, unless there is something repugnant in the subject or context, the expressions “High Court” and “Chief Justice” mean the High Court of Judicature for the North-Western Provinces and the Chief Justice of that Court, respectively.

Appointment of Additional Judicial Commissioner.

4. (1) The Local Government, with the previous sanction of the Governor-General in Council, shall, by notification in the official Gazette, appoint such person as it thinks fit to be an Additional Judicial Commissioner, and to exercise jurisdiction, as such Additional Judicial Commissioner, in the Court of the Judicial Commissioner of Oudh.

³ (2) The Local Government, with the like sanction and in the like manner, may also appoint such person as it thinks fit to be Second Additional Judicial Commissioner, and to exercise jurisdiction, as such Second Additional Judicial Commissioner, in the said Court.

⁴ (3) A person so appointed shall hold his office during the pleasure of the Local Government.

¹ For Statement of Objects and Reasons, see Gazette of India, 1891, Part V, p. 22, for Report of the Select Committee, see *ibid.*, p. 117, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 17 and 112.

² The word “and” and clause “(3) It shall come into force on the first day of April, 1891,” were repealed by s. 9 of the Oudh Courts Act (1891) Amendment Act, 1897 (16 of 1897), *infra*, p. 444. Now Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ Sub-section (2) was inserted by s. 2 (1) of the Oudh Courts Act (1891) Amendment Act, 1897 (16 of 1897), *infra*, p. 443.

⁴ The numbering of this sub-section was altered to (3) by s. 2 (2) of Act 16 of 1897, *infra*, p. 443.

¹ 5. (1) Subject to the other provisions of this Act, an Additional Judicial Commissioner shall exercise the same jurisdiction as the Judicial Commissioner may exercise under any enactment for the time being in force, but only in such cases as the Judicial Commissioner may direct.

Jurisdiction of Additional Judicial Commissioner and distribution of business.

(2) The Judicial Commissioner may, from time to time, transfer any case with respect to which he may have directed an Additional Judicial Commissioner to exercise jurisdiction and of which the hearing before such Additional Judicial Commissioner has not commenced, for hearing and disposal to his own file or to the file of the other Additional Judicial Commissioner (if any).

(3) Where this Act or any other enactment for the time being in force requires a case to be heard by a bench of two Judges of the Court of the Judicial Commissioner of Oudh and that Court for the time being consists of three Judges, the Judicial Commissioner shall, from time to time, determine what two Judges shall constitute such bench.

6. Subject to the other provisions of this Act, every enactment for the time being applicable to the Judicial Commissioner shall apply to ² [an] Additional Judicial Commissioner when exercising any jurisdiction under the last foregoing section, as if he were the Judicial Commissioner.

Law applicable to Additional Judicial Commissioner.

7. (1) ³. * * * * *

(2) [If the Court of the Judicial Commissioner of Oudh for the time being consists of only two Judges and any such case as is referred to in section 377 of the Code of Criminal Procedure, 1882,⁴ is heard before the Judicial Commissioner and the Additional Judicial Commissioner, and they are divided in opinion, they shall submit the case with their opinions thereon to the High Court to be laid before such Judge, or such bench of two or more Judges, of that Court as the Chief Justice may appoint.

Confirmation of capital sentences by a bench.

X of 1882.

¹ Substituted for the original section by s. 3 of the Oudh Courts Act (1891), Amendment Act, 1897 (16 of 1897) *infra*, p. 443.

The original section was as follows:—

² 5. (1) Subject to the other provisions of this Act, an Additional Judicial Commissioner shall exercise such jurisdiction of the Judicial Commissioner under any enactment for the time being in force as the Local Government may prescribe, but only in such cases as the Judicial Commissioner may direct.

(2) The Judicial Commissioner may withdraw from the Additional Judicial Commissioner, and himself hear and dispose of any case with respect to which he may have directed the Additional Judicial Commissioner to exercise jurisdiction and of which the hearing before the Additional Judicial Commissioner has not been commenced".

³ The word "an" was substituted for the word "the" by s. 4 of Act 16 of 1897, *infra*, p. 443.

⁴ Sub-section (1) of s. 7, as to Judicial Commissioner's Court being a "High Court" for the purpose of s. 377 of the Code of Criminal Procedure, was repealed by s. 5 of the Oudh Courts Act (1891) Amendment Act, 1897 (16 of 1897), *infra*, p. 443.

⁵ See now the same section of Act V of 1898, as modified up to the 1st April, 1903.

⁶ These words in square brackets were substituted for the word "When any such case as is referred to in that section of the Code" by s. 5 of Act 16 of 1897.

(Sec. 8.)

(3) Such Judge or bench, after such examination and hearing as he or it thinks fit, shall deliver his or its opinion in writing and cause a copy thereof under the signature of the Registrar of the High Court to be transmitted to the Judicial Commissioner, and the Judicial Commissioner and the Additional Judicial Commissioner sitting together shall, on receipt of the copy proceed to dispose of the case in conformity with the opinion of the Judge or bench.

(4) When the Chief Justice has appointed a bench of two or more Judges of the High Court under sub-section (2), and the Judges differ as to the opinion to be delivered, communicated and followed under sub-section (3), the opinion to be so delivered, communicated and followed shall be—

(a) if there is a majority of the Judges, the opinion of the majority, and

(b) if the Judges are equally divided, the opinion of the senior Judge.

Hearing of
other cases by
a bench.

8. Any of the following proceedings, namely :—

(a) an appeal from an original decree or order of a District Judge or Additional Judge,

(b) an appeal which, under section 18, sub-section (1), of the Oudh Civil Courts Act, 1879, as amended by the North-Western Provinces and Oudh Act, 1890¹, lies from a decree or order of a Subordinate Judge to the Judicial Commissioner. XX of 1890.

(c) any other appeal, whether civil or criminal, or any application or other matter, with respect to which appeal, or application or other matter, the Judicial Commissioner or [an]² Additional Judicial Commissioner, as the case may be, before whom it is pending has certified under his hand that it should in his opinion be heard by two Judges,

shall be heard by ³ [a bench consisting of two Judges of the Court of the Judicial Commissioner of Oudh] :

Provided, with respect to clauses (a) and (b), as follows, namely :—

(i) that the amount or value of the subject-matter of the suit in the Court of first instance was ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to the Judicial Commissioner is the same sum or upwards, or

¹ *Supra*, p. 237.

² The word "an" was substituted for the word "the" by s. 6 of the Oudh Courts Act (1891) Amendment Act, 1897 (16 of 1897), *infra*, p. 443.

³ These words were substituted for the words "the Judicial Commissioner and the Additional Judicial Commissioner sitting together" by s. 6 of Act 16 of 1897.

(Secs. 9-10.)

(ii) that the decree or order appealed from involves, directly or indirectly, some claim or question to, or respecting, property of like amount or value.

9. ¹[If the Court of the Judicial Commissioner of Oudh for the time being consists of only two Judges and] in any case before the Judicial Commissioner and the Additional Judicial Commissioner sitting together, other than a case for which provision is made in section 7 of this Act, a difference of opinion arises, the following rules shall be observed :—

Rules in
case of refer-
ence.

(a) If the case is a civil case, then, unless the Judicial Commissioner and the Additional Judicial Commissioner concur in a decision reversing or varying the decree or order under their consideration, such decree or order shall be upheld :

Provided that if the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and either the Judicial Commissioner or the Additional Judicial Commissioner is of opinion that the question should be referred to the High Court, the Judicial Commissioner and the Additional Judicial Commissioner shall jointly state the question and forward such statement, with their respective opinions on the question, to the High Court.

(b) If the case is a criminal case, then the Judicial Commissioner and the Additional Judicial Commissioner shall jointly state the question as to which they differ, and forward such statement, with their respective opinions on the question, to the High Court.

10. (1) On receiving a statement forwarded in any case under the last foregoing section, the High Court by a bench constituted by two or more Judges as the Chief Justice may determine, shall decide the question referred to therein and transmit to the Judicial Commissioner a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner and the Additional Judicial Commissioner sitting together shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

Procedure on
reference un-
der last fore-
going section.

¹ The words in square brackets were substituted for the word "whenever" by s. 7 of Act 16 of 1897, *infra*, p. 444.

(Secs. 11-12.)

(2) When the Judges differ as to the decision of any such question, the decision to be given, communicated and followed under sub-section (1), shall be—

- (a) if there is a majority of the Judges, the decision of the majority, and
- (b) if the Judges are equally divided, the decision of the senior Judge.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) The costs, if any, consequent on the statement of the question for the decision of the High Court shall be costs in the case.

11. (1) and (2) [*Repeal of certain portions of Act XIII, 1879.*] *Rep. Act XVI of 1897, s. 9 (2).*

Amendment
to section 23
of Act XIII
of 1879.

(3) For the last paragraph of section 23 of the same Act the following shall be substituted, namely :—

[*Supra*, p. 238.]

Power to
make rules as
to judgments,
evidence and
affidavits.

¹ 12. The Judicial Commissioner may, from time to time, with the previous sanction of the Local Government, by notification in the official Gazette, make rules² to provide for—

- (1) the recording of judgments, orders and sentences ;
- (2) the taking down of the evidence of witnesses ; and
- (3) the admission of affidavits as evidence of the matters to which such affidavits relate ;

and the Court of the Judicial Commissioner of Oudh shall, on the publication of any such rules, be bound thereby instead of by such parts of the³ Code of Criminal Procedure, 1882, and the⁴ Code of Civil Procedure, as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may, in accordance with such rules, permit the admission of affidavits as evidence of the matters aforesaid.

X of 1892.
XIV of 1892.

¹ S. 12 was added by s. 8 of the Oudh Courts Act (1891) Amendment Act, 1897 (16 of 1897) . *infra*, p. 444.

² For rules made in exercise of this power by the Judicial Commissioner of Oudh, see Notification No. 638, dated the 25th March, 1898, North-Western Provinces and Oudh Gazette, 1898, Pt. I, p. 672.

³ See now Act 5 of 1898, as modified up to 1st April, 1903.

⁴ See the revised edition as modified up to 1st December, 1899.

THE EXCISE ACT, 1896.

C O N T E N T S.

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PRELIMINARY.

SECTIONS.

1. Title, local extent and commencement.
 2. Repeal.
 3. Definitions.
 - 4 Saving of Acts XVI of 1868 and XIII of 1889.
-

CHAPTER II.

PRODUCTION OF SPIRIT AND FERMENTED LIQUOR.

5. Manufacture of spirit and liquor without license prohibited.
 6. Power to establish distilleries for country spirit.
 7. Duty on spirit.
 8. Duty on fermented liquor.
 9. Power for Chief Revenue-authority to make rules as to distilleries and breweries licensed under section 5.
 10. Power for Chief Revenue-authority to make rules for distilleries established under section 6.
 11. Sanction to rules under sections 9 and 10.
-

CHAPTER III.

CULTIVATION AND CONTROL OF INTOXICATING DRUGS.

12. Prohibition, restriction and regulation of cultivation of hemp and production of intoxicating drugs.
13. Duty on cultivation of hemp and intoxicating drugs.
14. Establishment and licensing of bonded and other warehouses and levy of duty on intoxicating drugs on issue therefrom.
15. Payment of warehouse-dues.
16. Period during which intoxicating drugs may remain warehoused.

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17. Power to remove intoxicating drugs from one warehouse to another.
18. Possession of intoxicating drugs.
19. Power for Local Government to make rules.
20. Power for Collector or other authorized officer to grant licenses and passes for the possession or transport of intoxicating drugs and for Chief Revenue-authority to make rules.

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SALE OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

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24. Surrender of retail license.
25. Power for Collector to farm fees and for farmer to grant licenses.
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For illegally importing spirit or fermented liquor.
For importing spirit, fermented liquor or intoxicating drug without paying duty.
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48. For illegally cultivating hemp or collecting the spontaneous growth of hemp, or preparing, possessing, importing, exporting or transporting intoxicating drugs.
49. For illicitly selling spirit, etc.
50. For permitting drunkenness, etc., in shop.
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52. For refusing to produce license and for breach of rules and conditions.
53. For conniving at illicit manufacture or sale of spirit, etc.
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THE SCHEDULE.

ACT No. XII OF 1896. ¹

(APPLIES TO THE UNITED PROVINCES.)

[19th March, 1896.]

An Act to amend the law relating to the Excise-revenue in force
in Northern India, Burma and Coorg.

WHEREAS it is expedient to amend the law in force in Northern India, Burma and Coorg relating to the production, sale, possession and import of spirit, fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, local extent and commencement.

1. (1) This Act may be called the Excise Act, 1896.

(2) It extends to the territories administered respectively by the
² Lieutenant-Governor of the North-Western Provinces and Chief Commissioner

¹ For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 9 ; for Report of the Select Committee, see *ibid.*, p. 153 ; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 16, 94 and 156.

² Now Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228 and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

(Chapter I.—Preliminary.—Secs. 2-3.)

of Oudh, the Lieutenant-Governor of the Punjab, and the Chief Commissioners of the Central Provinces, Burma * * * Coorg,¹ and Ajmere and Merwara; and

(3) It shall come into force at once.

2. (1) The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

(2) But all rules made, powers conferred and licenses and farms granted under any of the enactments so repealed and in force at the commencement of this Act shall be deemed to have been respectively made, conferred and granted under this Act.

3. (1) In this Act—

(a) “Chief Revenue-authority” means,—

Definitions.

in the territories administered by the ² Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh,—the Board of Revenue;
in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Burma,³—the Financial Commissioner; and

in the territories respectively administered by the Chief Commissioners of the Central Provinces, Coorg and Ajmere and Merwara,—the Chief Commissioner.

(b) “Collector” includes any Revenue-officer in independent charge of a district and any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Collector under this Act:

(c) “Commissioner of Revenue” means any officer⁴ appointed by the Local Government to discharge, throughout any specified local area, the functions of a Commissioner of Revenue under this Act:

(d) “Magistrate” means any Magistrate exercising powers not less than those of a Magistrate of the second class, or any Magistrate of the third class specially authorized in this behalf by the Magistrate of the district:

¹ The words “(inclusive of Upper Burma)” were repealed by the Burma Laws Act, 1898 (13 of 1898), Burma Code.

² Now Lieutenant-Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996-P., dated the 2nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), *infra*, p. 527.

³ The Chief Commissioner is now Lieutenant-Governor of Burma.

⁴ For notification appointing such officers to discharge the function of the Collector, see North-Western Provinces and Oudh Gazette, 1898, Pt. I, p. 698.

⁵ For notification appointing the Commissioner of Excise to exercise the powers of a Commissioner of Revenue, see North-Western Provinces and Oudh Gazette, 1900, Pt. I, p. 822.

(Chap. I.—Preliminary.—Sec. 3.)

- (e) "import" includes removal into one Province of British India from another :
- (f) "place" includes also house, boat and raft :
- (g) "táí" means the sap of any kind of palm-tree :
- (h) "fermented liquor" means malt liquor, wine, pachwai and fermented táí, and in any provision of this Act shall, if the Local Government, subject to the control of the Governor General in Council, so directs, include any other fermented liquor, and also táí, though it may not have perceptibly begun to ferment :
- (i) "spirit" means any liquor containing alcohol obtained by distillation :
- (j) ²the expression "intoxicating drugs" means ganja, bhang, charas, and every preparation and admixture of the same: ³
- (k) "hemp" means any variety of the hemp plant from which intoxicating drugs can be produced :
- (l) "tola" means a weight of one hundred and eighty grains Troy :
- (m) "ser" means a weight of eighty tolas :
- (n) the articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,—

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles ;

country spirit, one ser, and in Burma one reputed quart bottle ;

country fermented liquor, four sers, and in Burma four reputed quart bottles ;

bhanga, or any preparation or admixture thereof, one ser ;

ganja or charas, or any preparation or admixture thereof, five tolas.

If sold in larger quantities, they shall be deemed to be sold wholesale.

(2) In any case in which doubt arises, the Local Government may decide what, for the purposes of this Act, shall be deemed to be "country spirit" "country fermented liquor," "foreign spirit," and "foreign fermented liquor ;" and such decision shall be binding on the Courts.

¹ For notification declaring other liquors to be fermented liquors, see North-Western Provinces and Oudh Gazette, 1882, Pt. I, p. 351.

² The expression "intoxicating drugs" has further been declared by s. 2 of the United Provinces Excise Law Amendment Act, 1906 (U. P. Act 1 of 1906) to include every other drug which the Local Government may by notification declare to be included therein and every preparation and admixture of such drug, see *infra*, p. 931.

³ Cocaine has been declared, with reference to s. 2 of the United Provinces Excise Law Amendment Act, 1906 (U. P. Act I of 1906), to be an intoxicating drug, see U. P. Gazette 1906, Pt. I, p. 113.

(Chap. I.—Preliminary.—Sec. 4. Chap. II.—Production of Spirit and Fermented Liquor. Secs. 5-7.)

4. Nothing herein contained shall affect ¹ Act XVI of 1863 (to make special provision for the levy of the Excise-duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry) or the ² Cantonments Saving of Act XVI of 1863 and XIII of 1889.

XIII of 1889. Act, 1889.

CHAPTER II.

PRODUCTION OF SPIRIT AND FERMENTED LIQUOR.

5. No person shall construct, work or possess a distillery, still or brewery, or manufacture fermented liquor, in any district except under a license granted by the Collector or by a person authorised by the Collector to grant such license, and in accordance with the conditions (if any) contained therein. Manufacture of spirit and liquor without license prohibited.

6. The Collector may, with the previous sanction of the Chief Revenue-authority, from time to time— Power to establish distilleries for country spirit.

- (a) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established; and
- (b) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him.

7. No spirit shall be removed from any distillery licensed under section 5 or established under section 6 until— Duty on spirit.

- (a) such ³ duty as the Local Government may from time to time fix in respect of such spirit has been paid, or
- (b) a bond for such duty has been executed, or
- (c) duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct.

¹ General Acts, Vol. I.

² General Acts, Vol. V.

³ For notification fixing rates of still head duty on country spirit issued from distilleries in the United Provinces, see the United Provinces Gazette, 1904, Pt. I, p. 609.

For notification fixing the duty on certain liquors imported into the Punjab from distilleries in the U. P., see U. P. Gazette, 1906, Pt. I, p. 304.

(Chap. II.—Production of Spirit and Fermented Liquor. Secs. 8-9.)

Explanation.—Duty may be fixed or made payable under this section at different rates according to the places to which any spirit is to be removed for consumption.

Duty on fermented liquor.

8. No fermented liquor shall be removed from a brewery licensed under section 5 until—

(a) duty has been paid thereon at the rate for the time being leviable ^{VIII of 1894.} under the ¹ Indian Tariff Act, 1894, on like liquor imported by sea into any part of British India except Aden and Perim, or at such lower rate as the Local Government, having regard to the circumstances of the brewery or of the local area in which the brewery is situate, may from time to time prescribe, or

(b) a bond for such duty has been executed.

Power for Chief Revenue-authority to make rules as to distilleries and breweries licensed under section 5.

9. The Chief Revenue-authority may, from time to time, make rules as to—

- (a) the granting of licenses for distilleries, stills and breweries under section 5 ;
- (b) the notices to be given by the proprietor of a licensed distillery or licensed brewery when he commences and discontinues work ;
- (c) the size and description of the stills in such distillery ;
- (d) ² the storing and passing out of the spirit made in such distillery, or of the fermented liquor made in such brewery, and the contents of the passes ;
- (e) the inspection and examination of such distillery or brewery, and the warehouses connected therewith, and of the spirit or fermented liquor made and stored therein ;
- (f) the furnishing of statements of the spirit and the stills, coppers, casks and other utensils in such distillery, or of the fermented liquor and the mashtuns, underbacks, wort-receivers, coppers, heating tanks, coolers, and collecting, fermenting and other vessels in such brewery.

¹ See the revised edition, as modified up to 1st February 1906.

² For rules regulating the export of rum and other spirits manufactured at Shajahanpur to (1) the Central Provinces and Assam, see the United Provinces Gazette, 1902, Pt. I, p. 781 and (2) to Bengal, see *ibid.*, 1905, Pt. I, p. 373.

(Chap. II.—*Production of Spirit and Fermented Liquor. Secs. 10-11.*

Chap. III.—*Cultivation and Control of Intoxicating Drugs, Sec. 12.*)

10. The Chief Revenue-authority may, from time to time, make rules, as to—
- (a) the management of distilleries established under section 6, and in particular, the conditions on which any materials to be used in making spirit may be brought into such distillery ;
- (b) the conditions on which spirit may be made in such distilleries ; and
- (c) the storing and passing out of the spirit so made, and the contents of the passes. .

11. Except in the territories respectively administered by the Chief Commissioners of the Central Provinces, Coorg and Ajmere and Merwára, the sanction of the Local Government is required to validate rules under sections 9 and 10.

CHAPTER III.

CULTIVATION AND CONTROL OF INTOXICATING DRUGS.

12. (1) *In Burma, the cultivation of hemp and the preparation of intoxicating drugs are prohibited except under, and in accordance with, a license granted by such officer as the Local Government may from time to time appoint in this behalf.*

(2) In the other territories to which this Act extends, the Local Government, with the previous sanction of the Governor General in Council may, from time to time by notification ¹ in the official Gazette, in respect of the whole or any part of the territories administered by it,—

- (a) prohibit, absolutely or except under, and subject to the conditions of, a license granted by such officer as the Local Government may from time to time appoint in this behalf, the cultivation of the hemp plant and the production or preparation of intoxicating drugs from the hemp plant so cultivated, and place the cultivation

¹ For notifications issued under this sub-section, see North-Western Provinces and Oudh Gazette, 1896, Pt. I, pp. 735 and 740.

(Chap. III.—Cultivation and Control of Intoxicating Drugs. Secs. 13-14.)

of the hemp plant and the production or preparation and storage of such intoxicating drugs as aforesaid under such supervision as may be deemed necessary to secure payment of the duty (if any) imposed under this Act ;

- (b) restrict and regulate, in such manner as may by rule be prescribed, the collection by any person of the spontaneous growth of the hemp plant and the preparation of intoxicating drugs from the spontaneous growth so collected ; and
- (c) prohibit, absolutely or otherwise than by certain specified routes and under specified conditions, the import and transport of intoxicating drugs ;

and may, in like manner, cancel or vary any such notification.

Duty on
cultivation
of hemp and
intoxicating
drugs.

13. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in the official Gazette, in respect of the whole or any part of the territories administered by it,—

- (a) impose such duty, not exceeding two hundred rupees per acre, as it may think fit, on the cultivation of hemp ; or
- ¹(b) impose such duty, not exceeding twenty rupees per ser, as it may think fit on intoxicating drugs produced or prepared in or imported into, or exported from, or transported from place to place within, any of the territories to which this Act extends, or any part thereof ;

and may, in like manner, alter or abolish any duty imposed under this section.

Establishment
and licensing
of bonded
and other
warehouses
and levy of
duty on in-
toxicating
drugs on
issue there-
from.

14. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time,—

- (a) establish or license² bonded or other warehouses for the storage of intoxicating drugs, and
- (b) direct that, subject to such conditions (if any) as it may, from time to time, impose, the levy of the duty (if any) payable under section 13

¹ For notification under this clause, see N.-W. P. and Oudh Gazette, 1896, Pt. I, p. 736, and *ibid.*, 1901, Pt. I, p. 356.

² For notification establishing bonded warehouses in certain places in the United Provinces, see N.-W. P. and Oudh Gazette, 1896, Pt. I, p. 736.

(Chap. III.—Cultivation and Control of Intoxicating Drugs. Secs. 15-16.)

on intoxicating drugs in transit to or from, or stored in, such warehouses shall be postponed until such time as may by rule be fixed in this behalf.

15. (1) If intoxicating drugs be lodged in a warehouse established under the last foregoing section, the owner shall pay monthly, on receiving a bill or written demand for the same from the Collector or other officer deputed by the Collector in this behalf, warehouse-dues at such rates as the Chief Revenue-authority may fix.

Payment of
warehouse-
dues.

(2) If any bill for warehouse-dues presented under this section is not discharged within ten days from the date of presentation, the Collector may, in discharge of such demand (any transfer or assignment of the drugs notwithstanding), cause to be sold, in such manner as he may think fit, such sufficient portion of the drugs as he may select.

(3) Out of the proceeds of such sale the Collector shall satisfy, first, the duty payable in respect of the drugs sold, and, next, the demand in respect of which the drugs were sold, and shall then pay the surplus (if any) to the owner of the drugs on his application :

Provided that, if the drugs fail to produce a sum sufficient to satisfy the said duty and demand, the same shall not be sold, but shall be destroyed by, or by order of, the Collector :

Provided also that the application for such surplus (if any) as aforesaid be made within one year from the date of the sale of the drugs, or that sufficient cause be shown for not making it within such period.

16. Any intoxicating drugs warehoused under this Act may be left in the warehouse in which they are deposited, or in any warehouse to which they may in manner hereinafter provided be removed, till the expiry of two years from the date on which they were so deposited. The owner of any drugs remaining in a warehouse on the expiry of such period shall forthwith clear the same :

Period
during which
intoxicating
drugs may
remain
warehoused.

Provided that, when the license for a warehouse licensed under this Act is cancelled and the Collector gives notice of such cancellation to the owner of any drugs deposited in such warehouse, such owner shall, within seven days from the date on which such notice is given, remove such drugs to another warehouse or clear them.

(Chap. III.—Cultivation and Control of Intoxicating Drugs. Secs. 17-19.)

Power to
remove
intoxicating
drugs from
one
warehouse
to another.

17. (1) Any owner of intoxicating drugs warehoused under this Act may, at any time within two years from the date on which the drugs were so warehoused, with the permission of the Collector and on such conditions and after giving such security (if any) as the Collector may direct, remove the drugs from one warehouse to another, whether established or licensed by the same or another Local Government and whether under this Act or under any other enactment for the time being in force.

Possession of
intoxicating
drugs.

¹ 18. (1) Save as otherwise provided in sub-section (2), no person shall in the United Provinces have in his possession any larger quantity of any intoxicating drugs than that specified in section 3, sub-section (1), clause (n), in respect of such drugs unless he is permitted to collect, cultivate, manufacture, or sell the same or holds a pass therefor from the Collector or some other officers empowered by the Local Government to grant such passes.

U. P. I of
1906.

(2) No person shall in the United Provinces have in his possession any drugs, preparations, or admixtures which the Local Government, by notification under section 2 of the United Provinces Excise Law Amendment Act, 1906, has declared to be included in the definition of "intoxicating drugs" except under, and in accordance with the terms of, a general ² exemption granted by the Local Government, or a license granted by such officer as the Local Government may, from time to time, appoint in this behalf.

Power for
Local Gov-
ernment to
make rules.

19. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time³, by notification in the official Gazette, make rules consistent with this Act—

⁴ (a) to regulate the time, place and manner of payment of the duties (if any) imposed under section 13,

¹ S. 18 was substituted by 3 of the United Provinces Excise Law Amendment Act, 1906 (U. P. Act I of 1906), *infra*, p. 931.

The original section so far as it applied to the U. P. was as follows :—

"18. * * * * *

"(2) In the other territories to which this Act extends, no person shall have in his possession any larger quantity of any intoxicating drugs than that specified in section 3, sub-section (1), clause (n), in respect of such drugs unless he is permitted to collect, cultivate, manufacture or sell the same, or holds a pass therefor from the Collector or some other officer empowered by the Local Government to grant such passes."

² For notification exempting cocaine when in the possession of certain persons or purchased for medicinal purposes, see U. P. Gazette, 1906, Pt. I, p. 113.

³ For rules regulating the import of ganja from the Rajshahi District of Bengal (now of Eastern Bengal and Assam), into the United Provinces, see N.-W. P. and Oudh Gazette, 1899, Pt. I, p. 154; and from the Patna district, see *ibid.*, 1900, Pt. I, p. 77.

For rule prohibiting the transport of intoxicating drugs except by prescribed routes, see the N.-W. P. and Oudh Gazette, 1899, Pt. I, p. 189.

For rules regulating the transport of charas through the United Provinces from the Punjab to Bengal, see the N.-W. P. and Oudh Gazette, 1899, Pt. I, p. 189.

⁴ For rules under clause (a) see the N.-W. P. and Oudh Gazette, 1896, Pt. I, p. 736, the United Provinces Gazette, 1902, Pt. I, p. 261; and *ibid.*, 1904, Pt. I, p. 624.

(Chap. III.—*Cultivation and Control of Intoxicating Drugs. Sec. 20. Chap. V.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs. Sec. 21.*)

(b) to carry into effect the provisions of section 12, section 14 and section 18 or any of them, and

¹(c) generally, to carry into effect the provisions of this Chapter.

20. The Collector or any other officer ² empowered by the Local Government in this behalf may, from time to time, grant licenses or passes to persons desirous of possessing or transporting intoxicating drugs, and the Chief Revenue-authority, with the previous sanction of the Local Government, may make rules to regulate the grant of such licenses or passes.

Power for Collector or other authorized officer to grant licenses and passes for the possession or transport of intoxicating drugs and for Chief Revenue-authority to make rules.

CHAPTER IV.

SALE OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

21. No spirit, fermented liquor or intoxicating drug shall be sold except under, and in accordance with the terms of, a license granted under the provisions hereinafter contained :

Spirit, fermented liquor and intoxicating drugs not to be sold without license.

Provided as follows :—

- (a) nothing in this section applies to the sale of any foreign spirit or foreign fermented liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease ;
- (b) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may from time to time prescribe, a general license authorizing them to sell foreign spirit and foreign fermented liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district ;
- (c) any person making or producing country spirit or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rules from time to time made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor ;

¹ For rules as amended to date, under clause (c), see United Provinces Gazette, 1904, Pt. I, p. 625.

² For such a notification see N.-W. P. and Oudh Gazette, 1896, Pt. I, p. 740 ; and *ibid.*, 1902, p. 36.

(Chap. IV.—*Sale of Spirit, Fermented Liquor and Intoxicating Drugs.*
Secs. 22-24.)

- (d) any person authorized to cultivate the hemp plant may sell any intoxicating drug prepared from his plants to any person to whom he is permitted by the conditions of his license to sell the same, or to any person authorized to purchase the same by the order in writing of the Collector :

¹ Provided also that, where the Local Government has declared, by notification under section 2 of the United Provinces Excise Law Amendment Act, 1906, any drug, preparation, or admixture to be included in the definition of "intoxicating drugs," such drug, preparation, or admixture may be sold in the United Provinces, under, and in accordance with the terms of, a general exemption granted by the Local Government. U. P. I of 1906.

Licenses how
granted and
cancelled.

22. (1) Subject to the rules made by the Chief Revenue-authority under the powers conferred by this Act, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail and for the retail sale of country spirit or country fermented liquor, and (*except in Burma*) of intoxicating drugs, within his district or any part thereof or at any place therein.

(2) *Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs, wholesale, and licenses for the sale, in Burma, of intoxicating drugs, retail, shall be granted only by such officer as the Local Government from time to time appoints in this behalf.*

(3) Any license granted under this section may be cancelled by the Collector for any cause specified therein.

Further
power to
cancel licenses.

23. (1) Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor or intoxicating drugs should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days and shall either give fifteen days' previous notice of his intention to cancel the license, or shall, in addition to remitting such sum as aforesaid, make such compensation for default of notice as the Commissioner of Revenue or the Chief Revenue-authority directs.

(2) On the expiration of such notice or the payment of such additional compensation, the Collector may cancel the said license.

Surrender of
retail licenses.

24. (1) Any retail vendor licensed under this Act may surrender his license on the expiration of one month's previous notice given by him to the Collector of his intention to surrender the same and on payment

¹ This proviso to s. 21 was added by s. 4 of the United Provinces Excise Law Amendment Act, 1906 (U. P. Act I of 1906), *infra*, p. 931.

(Chap. IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.
Secs. 25-28.)

of such sum, not exceeding the amount of the license-fee for six months, as the Collector may fix in this behalf.

(2) If the Collector is satisfied that there is sufficient reason for surrendering a license, he may remit the sum so fixed.

25. (1) The Collector, with the sanction of the Chief Revenue-authority, may let in farm—

(a) the fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (except in Burma) of intoxicating drugs ;

Power for Collector to farm fees and for farmer to grant licenses.

(b) the right to manufacture, in any district or part of a district in which no distillery is established under section 6, country spirit or country fermented liquor.

(2) When the fees so leviable or the right to manufacture such spirit or liquor, or both, are or is let in farm the farmer may, subject to such reservations or restrictions as the Collector, with the sanction of the Chief Revenue-authority, may from time to time make or impose, grant licenses for the retail sale, or for the manufacture, or for both, as the case may be, of such articles within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form and on such day or days in each year as the Chief Revenue-authority may, from time to time, prescribe in this behalf.

26. The Collector, with the sanction of the Chief Revenue-authority, may cancel any farm granted under this Act.

Farm may be cancelled.

27. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine.

Compensation to farmers in certain cases.

28. Every farmer under this Act may use the same means and processes for the recovery of any arrear of fees due to him from any retail vendor as may be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants.

Recovery of arrears by farmers.

(Chap. IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs. Sec. 29.)

(Chap. V.—Possession and Import of Spirit and Fermented Liquor. Secs. 30-31.)

Power for
Chief Rev-
enue-author-
ity to regu-
late supply
of t_árí to
licensed
vendors.

29. The Chief Revenue-authority may, from time to time, make rules to regulate the mode in which t_árí shall be supplied to licensed vendors of the same.

CHAPTER V.

POSSESSION AND IMPORT OF SPIRIT AND FERMENTED LIQUOR.

Possession of
spirit, etc.

30. (1) No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section 3, sub-section (1), clause (n), in respect of such spirit or liquor, unless he is permitted to manufacture or sell the same, or he holds a pass therefor from the Collector or from some other officer empowered by the Local Government to grant such passes.

(2) Nothing in this section extends to—

(a) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouseman as such, or purchased by any person for his private use and not for sale, or

(b) t_árí intended to be used for the manufacture of gur or molasses.

Spirit and
fermented
liquor from
foreign
territory
subject to
duty.

31. A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof,—

(a) if the Local Government has fixed a duty under clause (a) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or,

(b) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(Chap. V.—Possession and Import of Spirit and Fermented Liquor.

Sec. 32. Chap. VI.—Officers and their Powers. Secs. 33-34.)

(2) The provisions of sub-section (1) with respect to spirit shall apply to fermented liquor also, with this modification, that the duty to be paid in
 VIII of 1894. respect of the liquor shall be the duty leviable on like liquor under the ¹ Indian Tariff Act, 1894, or such lower duty as the Local Government, having regard to the rate or rates of duty for the time being leviable under clause (a) of section 8, may from time to time prescribe.

(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.

32. (1) The Governor General in Council may, from time to time, by Spirit and fermented liquor from notification in the Gazette of India, impose such duty as he thinks fit on any liquor from spirit or fermented liquor brought by land from beyond the limits of India territory beyond into any territory to which this Act extends or into any specified part thereof, India subject to and may alter or abolish any duty so imposed. duty.

(2) When any duty is imposed under this section, the Governor General in Council may by rule prescribe the time, place and manner of payment of the same.

CHAPTER VI.

OFFICERS AND THEIR POWERS.

33. The Collector may appoint persons, by name or by virtue of their Collectors may appoint office, to be officers for the collection of the excise-revenue and for the preven- Excise- tion of offences against this Act, and the officers so appointed shall, in addi- officers. tion to their ordinary designations (if any), be styled Excise-officers.

34. The Collector may recover any amount due to the Government under this Act or the rules made hereunder, by distress and sale of the moveable Recovery of arrears of fees. property of the person from whom such amount is due or of his surety, or by any other process for the time being in force for the recovery of arrears of land-revenue due from landholders or from farmers of land or their sureties.

¹ See the revised edition, as modified up to 1st February, 1906.

(Chap. VI.—Officers and their Powers. Secs. 35-39.)

Power of
Excise-
officers to
inspect
shops.

35. Any Excise-officer may enter and inspect at any time by day or by night the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country spirit, or the sale of country spirit, country fermented liquor or intoxicating drugs.

Power of
Excise-
officers to
arrest persons
carrying
spirit, etc.,
liable to con-
fiscation.

36. Any Excise-officer may stop and detain any person carrying any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act, and may seize such spirit, liquor or drug, together with any vessels, packages or coverings in which it is contained, and any animals and conveyances used in carrying it, and may also arrest the person in whose possession such spirit, liquor or drug is found.

Power of
Excise-
officers to
arrest persons
in possession
of article
liable to con-
fiscation and
to seize
article.

37. Any Excise-officer in the receipt of a monthly salary of not less than ten rupees, or who receives an annual remuneration equivalent to such salary may arrest any person having in his possession any article liable to confiscation under this Act or engaged in the unlawful sale of any spirit, fermented liquor or intoxicating drug, and may seize such article, spirit, liquor or drug.

Power of
Excise-
officer to
search on
information
of illicit
manufacture
or possession.

38. Whenever any Excise-officer in receipt of such monthly salary or annual remuneration as aforesaid has reason to believe, from information given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured, or any article liable to confiscation under this Act is kept or concealed, such officer may, after sunrise and before sunset (but always in the presence of an officer of police in the receipt of a monthly salary of not less than ten rupees, unless the Excise-officer is himself such an officer of police), enter into such place and in case of resistance may break open any door and force and remove any other obstacle to such entry, and may seize and carry away such spirit or article and may also arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping and concealing of such article.

Collector
may issue
warrant of
arrest in
certain cases.

39. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act.

(Chap. VI.—Officers and their Powers. Secs. 40-44.)

40. (1) The Collector may issue his warrant for the search of any place in which he has reason to believe, either from information in writing, or from the proceedings in any other case under this Act or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act is kept or concealed.

Collector may
issue search-
warrant.

(2) Such warrant may be executed by any Excise-officer in the receipt of a monthly salary of not less than ten rupees at the time and in the manner prescribed in section 38.

(3) Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any Excise-officer as aforesaid in the manner prescribed in section 38, and shall cease to be in force at sunrise on the day next following.

41. Whenever an Excise-officer arrests any person, or seizes any article liable to confiscation under this Act, or enters any place for the purpose of searching for any such article, he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, seizure or search to his official superior, and, unless acting under the warrant of the Collector, shall take the person arrested or the article seized with all convenient despatch to the Magistrate for trial or adjudication.

Excise-officer
to report
arrest, etc.,
and to take
person
arrested to
Magistrate.

42. Whenever any person is arrested or any article is seized under the warrant of a Collector issued under this Act, the officer making such arrest or seizure shall, within twenty-four hours thereafter, take the person arrested or the article seized to the Collector, and the Collector, after such enquiry as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article.

Procedure
after arrest
or seizure.

43. All police-officers are required to aid the Excise-officers in the due execution of this Act, upon request made by such Excise-officers.

Police to aid
Excise-
officers.

44. (1) The Local Government may, from time to time, invest either by name or in virtue of his office—

(a) any police-officer with the powers conferred on Excise-officers by section 36 of this Act;

Power for
Local Gov-
ernment to
invest Police-
officers with
powers of
Excise-
officers.

(Chap. VII.—Penalties. Secs. 45-46.)

(b) any police-officer in charge of a station or any police-officer of or above the grade of head constable or sergeant with the powers conferred on Excise-officers by sections 37 and 38 of this Act.

(2) Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act.

CHAPTER VII.

PENALTIES.

For illegally
manufactur-
ing spirit
or liquor.

45. (1) Whoever in contravention of section 5 constructs, works of possesses a distillery, still or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(2) All spirit and liquor made in contravention of section 5, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

For illegally
introducing
country
spirit.

46. (1) Any person who—

(a) without a special pass from the Collector introduces, into the limits fixed for the consumption of spirit made at a distillery established under section 6, any country spirit manufactured at another place, or,

For illegally
removing
spirit or
fermented
liquor.

(b) in contravention of section 7 or section 8 or of any rule made under section 9 or section 10, removes any spirit from a distillery or any fermented liquor from a brewery, or,

For illegally
importing
spirit or fer-
mented
liquor.

(c) in contravention of section 31, brings any spirit or fermented liquor into any territory to which this Act extends, or,

For import-
ing spirit,
fermented
liquor or
intoxicating
drug without
paying duty.

(d) without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 32, brings any spirit or fermented liquor into any territory to which this Act extends,

shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(Chap. VII.—Penalties. Secs. 47-51.)

(2) All such spirit or fermented liquor, together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.

47. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section 9 or section 10 shall be punished with fine not exceeding one hundred rupees.

For contravening rules prescribed by Chief Revenue-authority.

48. (1) Any person who, in contravention of any provision of Chapter III or any rule thereunder, or without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 13,—

For illegally cultivating hemp or collecting the spontaneous growth of hemp, or preparing, possessing, importing, exporting or transporting intoxicating drugs.

- (a) cultivates hemp, or
- (b) collects the spontaneous growth of the hemp plant, or
- (c) prepares any intoxicating drug, or
- (d) possesses any intoxicating drug, or
- (e) imports, exports or transports any intoxicating drug,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Any intoxicating drug in respect of which an offence has been committed under this section, together with the vessels containing the same and any animals and conveyances used in carrying it, shall be liable to confiscation.

49. Any person who, in contravention of section 21, sells any spirit, fermented liquor or intoxicating drug, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

For illicitly selling spirit, etc.

50. Any person licensed to sell retail spirit, or fermented liquor, or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing-apparel or other effects in barter for spirit, fermented liquor or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees.

For permitting drunkenness, etc., in shop.

51. Any person who possesses any spirit or liquor, in contravention of section 30, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both

For illegally possessing spirit or liquor.

(Chap. VII.—Penalties. Secs. 52-55.)

and the spirit or liquor, together with any vessels, packages and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation.

For refusing
to produce
license and
for breach
of rules and
conditions.

52. Any person holding a license under this Act and refusing to produce the same on the demand of any Excise-officer, and any person who breaks any rule under this Act, or any condition of a license granted under this Act for the breach of which rule or condition no other penalty is hereby provided, shall be punished with fine which may extend to fifty rupees.

For conniving
at illicit
manufacture
or sale of
spirit, etc.

53. (1) Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs shall for every such offence be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(2) Any person invested with local jurisdiction who authorizes or connives at the illegal sale of any spirit, fermented liquor or intoxicating drug within the local limits of such jurisdiction shall be punished with fine which may extend to five hundred rupees.

For police
neglecting
to aid Excise-
officers.

54. Any Police-officer who, without lawful excuse, neglects or refuses to aid an Excise-officer as required by section 43, and any officer in charge of a police-station who, on application made by an Excise-officer desiring to act under section 38, fails to attend a search himself, or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees.

For vexatious
search or
seizure.

55. Any Excise-officer who,—

- (a) without reasonable grounds of suspicion searches, or causes to be searched, any place, or
- (b) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or
- (c) vexatiously and unnecessarily arrests any person, or
- (d) commits any other excess not required for the execution of his duty,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(Chap. VII.—Penalties. Secs. 56-61. Chap. VIII.—Military Cantonments. Sec. 62.)

56. Any Excise-officer who, in contravention of section 41 or section 42, neglects to report the particulars of an arrest, seizure or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

For delay in reporting arrest, etc., or in taking person arrested to Magistrate.

57. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 45, 46, 47, 48, 49, 51, 52 and 53, except on the complaint or report of the Collector or an Excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

Prosecutions restricted.

58. Every person imprisoned for an offence under section 47 or section 52 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Confinement in what jail.

59. Whoever attempts to commit any offence punishable under this Act or abets, within the meaning of the ¹ Indian Penal Code, the commission of any such offence shall be punished with the punishment provided for such offence.

Attempts and abetment.

60. Any Magistrate before whom any person is convicted of any offence under sections 45, 46, 47, 48, 49, 51 or 53, may award to any person who has contributed in any way to such conviction, the whole or any portion of any fine imposed upon the offender and paid by him or realised from his property.

Disposal of fines, etc., as rewards.

61. Any article liable to confiscation under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

Magistrate to pass order of confiscation.

CHAPTER VIII.

MILITARY CANTONMENTS.

62. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall

Manufacture and sale of spirits, etc., in military cantonments.

¹ See the revised edition, as modified up to 1st April, 1903.

(Chap. VIII.—*Military Cantonments.* Sec. 63. Chap. IX.—*Miscellaneous.* Secs. 64-65.)

be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor, be let in farm, unless with the knowledge and consent of the Commanding Officer; and upon his requisition any such license, which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled.

Application
of Act to
military
cantonments.

63. In all other respects the provisions of this Act shall have effect within such limits or distance.

CHAPTER IX.

MISCELLANEOUS.

Collector
subject to
control of
Commission-
er.

64. (1) The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of Revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors.

(2) The Chief Revenue-authority may revise any order passed by a Collector under this Act or by a Commissioner under this section.

Additional
power for
Chief Reve-
nue-authority
to make rules.

65. The Chief Revenue-authority may, from time to time, make¹ rules consistent with this Act—

- (a) as to the period for which any license or farm under this Act shall be granted ;
- (b) as to the fee payable for any such license or farm, and the time or times at which it shall be payable ;
- (c) as to the security to be given by any licensee or farmer under this Act ;

¹ For rules as to the cultivation of the hemp plant and the sale, etc., of intoxicating drugs, see North-Western Provinces and Oudh Gazette, 1896, Pt. I, p. 741.

For rules by the Board of Revenue, United Provinces, as to fee for licenses for the sale of methylated spirits, the form of such licenses and generally for carrying out the purposes of the Act as to the sale of such spirits, see United Provinces Gazette, 1902, Pt. I, p. 530.

For rule as to removal from a distillery of spirit rendered effectually unfit for human consumption, see United Provinces Gazette, 1904, Pt. I, p. 187.

(Chap. IX.—Miscellaneous. Sec. 66. The Schedule.)

- (d) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer and the conditions which may be inserted therein ;
- (e) as to the disposal of things confiscated under this Act ;
- (f) as to the duties of Excise-officers ; and
- (g) to provide generally for carrying out the provisions of this Act.

66. The Local Government may, from time to time, by notification in the official Gazette, exempt¹ within any specified local area any specified articles or any specified class of persons from all or any of the provisions of this Act, and may, by like notification, cancel any such exemption.

Power for
Local Govern-
ment to exempt
articles and
persons.

THE SCHEDULE.

(See section 2.)

| Year. | No. | Title or subject. | Extent of repeal. |
|-------|-------|---|---|
| 1881 | XXII | The Excise Act, 1881 | The whole. |
| 1885 | VI | Amending the Excise Act, 1881 | Ditto. |
| " | IX | Amending the Excise Act, 1881, and other Acts. | So much as relates to the Excise Act, 1881. |
| 1887 | II | Ditto | Ditto. |
| 1888 | XVIII | Financial Commissioner, Burma | So much of section 7 and the schedule as relates to the Excise Act, 1881. |
| 1889 | XIII | The Cantonments Act, 1889 | So much of section 2 and the schedule as relates to the Excise Act, 1881. |
| 1890 | XIII | Amending the Excise Act, 1881, and other Acts. | Sections 2 to 5 (both inclusive). |
| " | XX | The North-Western Provinces and Oudh Act, 1890. | Section 43. |
| 1891 | XII | The Repealing and Amending Act, 1891. | So much as relates to the Excise Act, 1881. |
| 1893 | X | Amending the Excise Act, 1881 | The whole. |

¹ For notifications exempting certain persons and certain tracts of country where the farming or outstall system is in force in regard to the retail vend of country spirit, see those noted on p. 119 of list 4 in Vol. I of the United Provinces List of Local Rules and orders, 1904.

(Secs. 1-7.)

ACT No. II OF 1897.¹

[APPLIES TO THE UNITED PROVINCES.]

[28th January, 1897.]

An Act to amend the Criminal Tribes' Act, 1871.

WHEREAS it is expedient to amend the Criminal Tribes' Act, 1871; It is hereby enacted as follows:—

Title and
commence-
ment.

1. (1) This Act may be called the Criminal Tribes' Act Amendment ^{XXVII of} 1871.
Act, 1897; * 2

(2) * * * * *

Addition of
proviso to
section 1,
Act XXVII,
1871.

2. To section ¹ of the Criminal Tribes' Act, 1871, the following proviso ^{XXVII of} 1871.
shall be added, namely:—

[*Supra*, p. 154.]

Addition of
new section
after section
1, Act XXVII,
1871.

3. After section 1 of the Criminal Tribes' Act, 1871, the following sec- ^{XXVII of} 1871.
tion shall be inserted, namely:—

[*Supra*, p. 155.]

Addition of
new section
after section
17, Act
XXVII, 1871.

4. After section 17 of the said Act the following section shall be added,
namely:—

[*Supra*, p. 157.]

Substitution
of new section
for section 19,
Act XXVII of
1871.

5. For section 19 of the said Act the following section shall be substi-
tuted, namely:—

[*Supra*, p. 159.]

Addition of
two new sec-
tions after
section 19,
Act XXVII,
1871.

6. After section 19 of the said Act the following sections shall be added,
namely:—

[*Supra*, p. 159.]

Addition of
schedule to
Act XXVII
of 1871.

7. To the said Act the schedule in the schedule to this Act shall be added.

THE SCHEDULE.

(See section 7.)

[*Supra*, p. 163.]

¹ For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 2; for Report of the Select Committee, see *ibid*, 1897, Pt. V, p. 1; and for Proceedings in Council, see *ibid*, 1896, Pt. VI, p. 7, *ibid*, 1897, Pt. VI, pp. 2 and 12.

² The word "and" and sub-section (2) "It shall come into force at once" were repealed by the Repealing and Amending Act, 1903 (1 of 1903).

(Secs. 1-6.)

ACT No. XVI OF 1897.¹

[APPLIES TO THE PROVINCE OF OUDH.]

[5th November, 1897.]

An Act to amend the Oudh Courts Act, 1891.

XIV of 1891 WHEREAS it is expedient to amend the Oudh Courts Act, 1891; It is hereby enacted as follows:—

1. (1) This Act may be called the Oudh Courts Act (1891) Amendment Act, 1897; and

Short title
and com-
mencement.

(2) It shall come into force at once.

XIV of 1891. 2. (1) In section 4 of the Oudh Courts Act, 1891 (hereinafter referred to as "the said Act"), after sub-section (1) the following sub-section shall be inserted, namely:—

Amendment
of section 4,
Act XIV,
1891.

[*Supra*, p. 412.]

(2) Sub-section (2) of the same section shall be re-numbered as sub-section (3).

3. For section 5 of the said Act the following section shall be substituted, namely:—

Substitution
of new section
for section 5,
Act XIV,
1891.

[*Supra*, p. 413.]

4. In section 6 of the said Act, for the word "the", where it occurs before the words "Additional Judicial Commissioner," the word "an" shall be substituted.

Amendment
of section 6,
Act XIV,
1891.

5. In section 7 of the said Act, sub-section (1) is repealed, and, in sub-section (2), for the first fourteen words the following shall be substituted, namely:—

Amendment
of section 7,
Act XIV,
1891.

[*Supra*, p. 413.]

6. In section 8 of the said Act, for the word "the" where it first occurs before the words "Additional Judicial Commissioner", the word "an" shall be substituted, and for the words "the Judicial Commissioner and the Additional Judicial Commissioner sitting together" the words "a bench consisting of two Judges of the Court of the Judicial Commissioner of Oudh" shall be substituted.

Amendment
of section 8,
Act XIV,
1891.

¹ For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 118, and for Proceedings in Council, see *ibid*, 1897, Pt. VI, pp. 224 and 248.

(Secs. 7-9.)

Northern India Canals and Drainage. [1899: Act XVI.]

(Secs. 1-3.)

Amendment
of section 9,
Act XIV,
1891.

7. In section 9 of the said Act, for the word "Whenever" the following shall be substituted, namely:—

[*Supra*, p. 415.]

Addition of
new section
after section
11, Act XIV,
1891.

8. After section 11 of the said Act the following section shall be added, namely:—

[*Supra*, p. 416.]

Repeal of
certain other
parts of Act
XIV, 1891.

9. (1) In section 1 of the said Act, the words and figures "and (3) it shall come into force on the first day of April, 1891", are repealed.

(2) Section 2 and sub-sections (1) and (2) of section 11 of the said Act are repealed.

ACT No. XVI OF 1899.¹

[APPLIES TO THE UNITED PROVINCES.]

[14th July, 1899.]

An Act further to amend the Northern India Canal and Drainage Act, 1873.

WHEREAS it is expedient further to amend the Northern India Canal and Drainage Act, 1873; It is hereby enacted as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Northern India Canal and Drainage (Amendment) Act, 1899; and

(2) It shall come into force at once.

Addition to
section 36,
Act VIII,
1873.

2. To section 36 of the Northern India Canal and Drainage Act, 1873, VIII of 1873, the following paragraph shall be added, namely:—

[*Supra*, p. 181.]

Amendment
of section 47,
Act VIII,
1873.

3. In section 47 of the said Northern India Canal and Drainage Act, VIII of 1873, for the words "or tenants" the words "tenants or sub-tenants" shall be substituted.

¹ For Statement of Objects and Reasons, see Gazette of India, 1899, Pt. V, p. 71; and for Proceedings in Council, see *ibid*, pp. 184 and 188.

THE ASSAM LABOUR AND EMIGRATION ACT, 1901
(VI OF 1901).

C O N T E N T S.

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THE FIRST SCHEDULE.—FORM OF LABOUR-CONTRACT BETWEEN LABOURER
AND EMPLOYER.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

(Chapter I.—Preliminary, Sec. 1.)

ACT No. VI OF 1901.

(APPLIES TO THE UNITED PROVINCES.)

[The 9th March, 1901.]

An Act to consolidate and amend the law relating to Emigration to the Labour-districts of Assam.

WHEREAS it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam ; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Assam Labour and Emigration Act, 1901.

Short title,
extent and
commence-
ment.

(2) It extends—

(a) to the Provinces of Bengal (including the Sonthal Parganas), the² North-Western Provinces, ²Oudh and Assam, the Central Provinces and the District of Ganjam in the Province of Madras; and

(b) to such other parts of British India as the Local Government may with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct.

(3) It shall come into force—

(i) in the territories mentioned in clause (a) of sub-section (2), at once and,

(ii) in any territories to which it may be extended by a notification under clause (b) of the said sub-section, on such day as may be specified in that behalf in the notification.

¹ This Act is an amalgamation of the provisions of two Bills separately introduced in Council, *see* the Report of the Select Committee referred to below. These Bills were the "Assam Labour and Emigration Bill" and the "Assam Emigrants Health Bill". For Statements of Objects and Reasons *see* Gazette of India, 1899, Pt. V, pp. 165 and 175 respectively; for Report of the Select Committee on both Bills which led to their amalgamation, *see* Gazette of India, 1901, Pt. V, p. 27. For Proceedings in Council relating to each Bill separately, *see* *ibid.*, 1899, Part VI, pp. 225 and 234 respectively, and for Proceedings in Council after their amalgamation, *see* *ibid.*, 1901, Pt. VI, pp. 15 and 32.

² Now the United Provinces of Agra and Oudh. *see* Proclamation No. 996-P, dated the 22nd March 1902, Gazette of India, 1902, Pt. I, p. 228 and the United Provinces (Designation) Act, 1907 of 1902, s. 2, *infra*, p. 527.

*(Chapter I.—Preliminary. Sec. 2.)***Definitions.**

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

- (a) “agent” means a garden-sardar or other person engaging or assisting any native of India to emigrate under Chapter V :
- (b) “Assistant Inspector” means an Assistant Inspector of Labourers appointed under this Act :
- (c) “contractor” means a contractor licensed under this Act :
- (d) “dependant” includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a contractor, sub-contractor, recruiter, local agent or garden-sardar, or accompanying any emigrant with the consent of an agent :
- (e) “emigrate” denotes the departure of any native of India (not being a native of a labour-district) of the age of sixteen years or upwards from any part of the territories in which this Act may for the time being be in force, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant :
- (f) “employer” means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed :
- (g) “estate” means the land upon which any labourers or more than fifty other persons have been engaged to labour :
- (h) “garden-sardar” means a person employed on an estate and deputed by his employer to engage labourers :
- (i) “Inspector” means an Inspector of Labourers appointed under this Act :
- (j) “labour-contract” means a contract, penally enforceable under this Act, to labour for hire in a labour-district otherwise than as a domestic servant :
- (k) “labour-district” means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet in the Province of Assam .

(Chapter I.—Preliminary. Sec. 3.)

- (l) "labourer" means any person bound by a labour-contract, and includes any person registered as such under section 34 or section 69 :
- (m) "local agent." means a local agent licensed under this Act :
- (n) "Magistrate" means a District Magistrate, Sub-divisional Magistrate or other person appointed by the Local Government to perform the functions of a Magistrate under this Act :
- (o) "recruiter" means a recruiter licensed under this Act :
- (p) "recruiting district" means a district in which this Act is for the time being in force, other than a labour-district :
- (q) "Registering-officer" means a Registering-officer appointed under this Act :
- (r) "sign" and "signature" include, in the case of persons unable to write, finger-impressions :
- (s) "sub-contractor" means a sub-contractor licensed under this Act :
and
- (t) "Superintendent" means a Superintendent of Emigration appointed under this Act.

IX of 1872.

(2) All words defined in the ¹ Indian Contract Act, 1872, and used in this Act shall be deemed to have the meanings respectively assigned to them by that Act.

3. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, prohibit all persons from recruiting, engaging, inducing or assisting any native of India, ² or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district, or any specified portion of any labour-district, either absolutely or otherwise than in accordance with such of the provisions of this Act as may be specified in the notification :

Local Government may prohibit recruitment, etc., for emigration to any labour-district or part thereof either absolutely or otherwise than under certain provisions of Act.

¹ See the modified edition, as revised up to the 30th June, 1901.

² For notification prohibiting all persons recruiting, engaging, inducing or assisting any native of India to emigrate from certain districts in the Allahabad and Fyzabad Divisions except in accordance with the provisions of Chapters III and IV, see North-Western Provinces and Oudh Gazette, 1901, Pt. I, p. 735. For rules in connection with this notification, see United Provinces Gazette, 1902, Pt. I, p. 221.

(Chapter I.—Preliminary. Section 4. Chapter II.—Labour-Contracts generally. Secs. 5-6.)

Provided that a notification under this section shall not take effect until the expiry of six months from the date of its publication in the Gazette, unless for any special reason the Local Government thinks it necessary to direct that the notification is to take effect at an earlier date.

Appointment
of officers.

4. (1) The Local Government may appoint so many persons as it thinks necessary to be Superintendents of Emigration, Registering-officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors, under this Act, respectively, and, with respect to any such officer, may, subject to the control of the Governor General in Council, declare the local area situate in the Province within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder.

(2) Every person so appointed shall be deemed to be a public servant within XLV of 1860. the meaning of the ¹ Indian Penal Code.

CHAPTER II.

LABOUR-CONTRACTS GENERALLY.

Essentials of
labour-con-
tracts.

5. (1) Every labour-contract shall be in writing in the form set forth in the first schedule, and shall be executed as hereinafter provided in duplicate on substantial paper.

(2) Every labour-contract shall specify—

- (a) the names of the labourer and his employer;
- (b) the term for which the labourer is to labour;
- (c) the monthly wages in money of the labourer and the price at which rice is to be supplied to him;
- (d) the labour-district in which, and, if the labourer so requests, the estate on which, the labourer is to labour.

(3) No labour-contract shall be made for a term exceeding four years or, if the contract is entered into under the provisions of section 118, for a term exceeding one year, commencing from the date of its execution.

¹ See the revised edition, as modified up to the 1st April, 1903.

(Chapter II.—Labour-contracts generally. Secs. 6-8.)

Fourth.—No labour-contract shall stipulate for a less rate of monthly wages than—

for the first year, five rupees in the case of a man and four rupees in the case of a woman :

for the second and third years, five rupees eight annas in the case of a man and four rupees eight annas in the case of a woman : and

for the fourth year, six rupees in the case of a man and five rupees in the case of a woman :

Provided that the payment of wages under a labour-contract at the stipulated rate shall during the first six months after the arrival of the labourer in the labour-district where he is first employed be contingent on the completion of half the daily task regulated in accordance with the provisions of this Act, unless an Inspector has certified that the labourer is physically fit to perform the whole of such task :

Provided also that in all other cases the payment of wages at the stipulated rate shall be contingent on the completion of such daily task :

Provided further that any labour-contract made before the first day of April, 1903, may stipulate for a rate of monthly wages of not less than five rupees in the case of a man and four rupees in the case of a woman for the second and third years of the term of such contract.

6. No contract made otherwise than in accordance with the provisions of section 5 shall be enforceable under this Act as a labour-contract against the labourer entering into it.

Contracts not enforceable as labour-contracts unless made in accordance with section 5.

7. Unless his labour-contract contains a specific obligation to that effect, no labourer shall be bound by it to undertake any work involving underground labour in mines.

In absence of specific obligation, underground labour not obligatory.

8. Unless his labour-contract specifies the particular estate on which he is to labour, a labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract :

Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district.

Provided that no labourer shall, without his consent, be separated from his dependants (if any) or from any other labourer, being his or her wife, husband, son or daughter.

(Chapter II.—Labour-contracts generally. Secs. 9-12.)

Persons who
may enter
into labour-
contracts.

9. Notwithstanding anything to the contrary in the ¹ Indian Contract IX of 1872, any person of the age of sixteen years or upwards may enter into a labour-contract :

Provided that no woman shall be capable of binding herself by a labour-contract if her husband or lawful guardian (if any) objects.

Power of
Local
Government
to cancel
contract in
case of
wrongful
recruitment.

10. (1) Where the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district, or compelled or induced to enter into a labour-contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may, by order in writing, direct the labour-contract of the labourer to be cancelled.

(2) On receipt of an order made under sub-section (1), the Superintendent, Inspector or Magistrate shall cancel the labour-contract referred to in the order, and shall thereupon make endorsement that it has been so cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

Power to
cancel con-
tract of
labourer
related to
labourer
whose con-
tract is
cancelled.

11. Where the labour-contract of a labourer is or has been cancelled under section 10, the Local Government may, in its discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of a labour-contract cancelled in the labour-districts, may be employed on any estate belonging to the same owner or under charge of the same employer.

Repatriation
of labourers
whose con-
tracts are
cancelled.

12. (1) Subject to any orders which the Local Government may make in this behalf, the Superintendent, Inspector or Magistrate may detain and send back to his native district any labourer, together with his dependants (if any), whose labour-contract has been cancelled under section 10 or section 11, and may recover the whole or any part of the expenses incurred during such detention or in so sending him back as follows, namely :—

- (a) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter III, from the contractor at whose depôt the labourer executed his labour-contract ;

¹ See the revised edition, as modified up to the 30th June, 1901.

(Chapter II.—Labour-contracts generally. Section 13. Chapter III.—Recruitment by Contractors, Sub-contractors and Recruiters. Sec. 14.)

(b) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter IV, from the employer by whom the certificate of the garden-sardar concerned was granted or from the local agent of the employer; and,

(c) in the case of a labourer in a labour-district, from the employer on whose estate the labourer is under contract to labour, or, if the labourer has been recruited under Chapter III, either from such employer or from the contractor at whose depôt the labourer executed the labour-contract, as to the Inspector or Magistrate may seem expedient.

(2) In the case of a labourer recruited under Chapter III, when the whole or any part of such expenses have been recovered from the employer, the employer shall be entitled to recover the same from the contractor at whose depôt the labourer executed the labour-contract.

(3) A certified copy of the order in writing of the Local Government under section 10 or section 11 and the receipt granted to the employer for such expenses shall be conclusive evidence of the title of the employer to recover such expenses from the contractor.

13. (1) Where a labourer is sent back to his native district under section 12, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer is actually conveyed to his native district. Escort for repatriated labourer.

(2) Any expenditure incurred in providing such escort or making such arrangements as aforesaid may be recovered as part of the amount expended in sending the labourer back to his native district.

CHAPTER III.

RECRUITMENT BY CONTRACTORS, SUB-CONTRACTORS AND RECRUITERS.

Contractors and Sub-contractors.

14. Any Superintendent specially empowered in this behalf by the Local Government may grant to persons fitted by character to act as contractors licenses to be contractors within the whole or any part of the local area for which the Superintendent has been appointed; and may also, on the application of any contractor, grant to persons fitted by character to act as sub-contractors, licenses to be sub-contractors, on behalf of the contractor, within the whole or any part of the local area for which the contractor is licensed. Licensing of contractors and sub-contractors.

(Chapter III.—Recruitment by Contractors, Sub-contractors and Recruiters.
Secs. 15-20.)

Fee for, and form of, contractors' and sub-contractors' licenses.

15. Every license granted under section 14 shall be in such form, and subject to the payment of such fee, not exceeding, in the case of a contractor one hundred rupees, and, in the case of a sub-contractor, fifty rupees, as the Local Government may, by rule, prescribe.

Duration of contractors' and sub-contractors' licenses and cancellation thereof.

16. (1) No license shall be granted under section 14 for a longer period than one year from the date thereof, and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, his license may be cancelled by the Superintendent who granted the same.

(2) A contractor or sub-contractor may, within one month from the date of any order of a Superintendent cancelling his license under sub-section (1), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

Duties of contractors.

17. Every contractor shall, in addition to the special duties imposed upon him by this Act, afford such information to the Superintendent and furnish him with such returns and reports as the Superintendent may, subject to any rules made by the Local Government in this behalf, require.

Sub-contractor to act on behalf of only one contractor.

18. No sub-contractor shall be licensed to act on behalf of more than one contractor.

Contractor or sub-contractor acting as recruiter.

19. A contractor or sub-contractor may act as a recruiter, and shall, when so acting, be subject to all the provisions of this Act relating to recruiters.

Liability of contractors for sub-contractors' and recruiters' acts and defaults.

20. (1) Every contractor shall be liable for the acts and defaults as a sub-contractor or recruiter of any person licensed to be a sub-contractor or recruiter on his behalf, and all payments which, under this Act or any rule thereunder, any person so licensed is required to make, may, in case of default, be recovered from the contractor concerned.

(2) The Superintendent may cancel the license of any contractor where the license of any person so licensed on behalf of the contractor is liable to be cancelled under this Act.

(3) Nothing in this section shall be deemed to render a contractor criminally liable for any act or default on the part of any person so licensed on his behalf.

(Chapter III.—Recruitment by Contractors, Sub-contractors and Recruiters.
Secs. 21-25.)

21. Every contractor shall establish and maintain, at such places and for such local areas as the Local Government may direct, suitable depôts for the reception and lodging, previous to their despatch to the labour-districts, of labourers engaged by him or by sub-contractors or recruiters licensed on his behalf, and shall provide at his own expense all necessary food, clothing and medical treatment for any labourers so engaged during their stay at the depôts.

Contractor to establish depôts.

22. (1) No depôt shall be used for the reception and lodging of labourers until it has been inspected and approved of by the Superintendent and the Medical Inspector.

Inspection and supervision of depôts.

(2) Every depôt shall be under the supervision of the Superintendent, the Magistrate or such other officer as the Local Government may appoint in this behalf, and shall be open at all times to inspection by the Superintendent, the Magistrate or such officer as aforesaid, and the Medical Inspector.

(3) Where the Superintendent considers that any depôt is unhealthy or has become unsuitable for the purpose for which it was established, he may, by order in writing, prohibit the use of the depôt for the reception and lodging of labourers.

23. In addition to the depôts hereinbefore provided for, the Local Government may establish separate hospital-depôts for the reception of labourers suffering from dangerously infectious or contagious diseases.

Establishment of hospital-depôts.

24. (1) Where a hospital-depôt is established under section 23, the Local Government may require any contractor having a depôt in the neighbourhood of the hospital-depôt to contribute to the expense of the establishment and maintenance of the hospital-depôt such reasonable sum as it may direct, and may recover the same from the contractor.

Contractor to contribute towards establishment and maintenance of hospital-depôt.

(2) Every hospital-depôt established under section 23 shall be under the charge of a medical officer appointed by the Local Government.

(3) Any Medical Inspector may direct the transfer of any labourer from a depôt established within the local limits of his jurisdiction to a hospital-depôt established under section 23 within the said local limits.

Recruiters.

25. Any Superintendent, empowered in this behalf by the Local Government may, on the application of a contractor or of any sub-contractor acting

Licensing of recruiters.

(Chapter III.—Recruitment by Contractors, Sub-contractors and Recruiters.
Secs. 26-30.)

on behalf of a contractor, grant to persons fitted by character to be employed in engaging labourers licenses to be recruiters on behalf of the contractor within the whole or any specified part of the local area for which the contractor has been licensed :

Provided that no person shall be granted a license under this section to be a recruiter on behalf of more than one contractor or to act as such within the local limits of more than one district.

Form of, and
fee for,
recruiter's
license.

26. Every license granted under section 25 shall be in such form, and subject to the payment of such fee, not exceeding sixteen rupees, as the Local Government may, by rule, prescribe.

Duration of
recruiter's
license.

27. No license shall be granted under section 25 for a longer period than one year from the date thereof ; and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, his license may be cancelled by the Superintendent who granted the same.

Recruiter
to hold certi-
ficate from
contractor
or sub-con-
tractor.

28. Every recruiter shall hold a certificate in writing authorizing him to act as such and signed by the contractor or sub-contractor on whose application he was licensed.

Magistrate's
counter-
signature of
recruiter's
license.

29. (1) No recruiter shall engage or attempt to engage any person as a labourer unless his license bears the countersignature of a Magistrate having jurisdiction in the district or sub-division for which he is licensed.

(2) No Magistrate shall countersign a recruiter's license unless and until he has satisfied himself by such enquiry as he thinks fit that the licensee is not, by character or from any other cause, unfitted to be a recruiter under this Act, that he holds the certificate prescribed by section 28, and that sufficient and proper accommodation has been provided in a suitable place and is available for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a dépôt.

Magistrate to
super-
vise
accommoda-
tion.

30. (1) Every Magistrate shall have, for the supervision, inspection and regulation of any place within the local limits of his jurisdiction in which accommodation is provided under section 29, sub-section (2), the same powers as are by this Act conferred on the Superintendent in respect of dépôts.

(2) The District or any Sub-divisional Magistrate may authorize any Magistrate subordinate to him, or any officer of police above the rank of

(Chapter III.—Recruitment by Contractors, Sub-contractors and Recruiters.
Secs. 31-33.)

sub-inspector, to visit and inspect such places as aforesaid at any time; and all recruiters or other persons in charge of such places as aforesaid shall afford to subordinate Magistrates and officers of police so authorized every facility for visiting and inspecting them.

31. (1) Where any Magistrate who has countersigned a recruiter's license afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided under section 29, sub-section (2), has become insufficient or improper or has ceased to be available, or that the place in which it is provided has become unsuitable, he may require the licensee to produce his license and may cancel his countersignature thereon, or he may impound the license and send it for cancellation to the Superintendent who granted the same.

(2) Every Magistrate refusing to countersign a recruiter's license or cancelling his countersignature thereon shall at once report his refusal or cancellation and the grounds thereof to the Superintendent who granted the license.

Procedure before arrival at Dépôts.

32. (1) Every recruiter who desires to engage any person as a labourer shall appear with the person before such medical officer as the Local Government may appoint in this behalf within the local limits of the jurisdiction of the Magistrate by whom the recruiter's license was countersigned, or, if no medical officer has been so appointed, before such medical officer as the Registering-officer before whom the person is taken for registration as hereinafter provided may direct.

(2) The medical officer shall thereupon examine the person, and shall, if satisfied that he is in a fit state of health to proceed to the labour-district in which he intends to labour, and is not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, give him a certificate to that effect.

33. Every person who obtains a certificate under section 32, together with any persons about to proceed to a labour-district as his dependants, shall thereupon be brought by the recruiter before the Registering-officer having jurisdiction within the local area for which the recruiter is licensed, or before such other Registering-officer as the Local Government may appoint for that local area. The recruiter shall, at the same time, produce and show his license to the Registering-officer.

(Chapter III.—*Recruitment by Contractors, Sub-contractors and Recruiters.*
Secs. 34-35.)

Examination
and registra-
tion of
intending
labourer.

34. (1) The Registering-officer shall thereupon inspect the certificate given under section 32 and the license of the recruiter, and, if he finds that the certificate has been duly given and that the recruiter is duly licensed, shall then examine the person brought before him under section 33 with reference to his intended labour-contract, and explain the same to him.

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract, and understands the same as regards the locality, the period and nature of the service and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter therein by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and the persons (if any) whom he wishes to have registered as his dependants as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

(3) Where any woman is produced before a Registering-officer for the purpose of being registered under this section, the Registering-officer shall, after such inquiry as may be necessary to satisfy him of the identity of her husband or lawful guardian, as the case may be, and, after such examination as may be necessary to satisfy him of the consent of such husband or lawful guardian, place on record in writing under his own signature that such husband or lawful guardian has consented to her entering into a labour-contract, and such record shall also be subscribed by the husband or lawful guardian with his signature.

(4) In the case of any such woman who is alleged to be a widow or of an unmarried woman who is stated to have no lawful guardian living, the Registering-officer shall satisfy himself by the evidence of at least one witness that her husband is dead or that she has no lawful guardian, as the case may be, and shall record such evidence in writing under his own signature.

Arrange-
ments to be
made for
return to
home of in-
tending
labourer
whose
registration
is refused.

35. (1) Where the Registering-officer refuses to register a person as a labourer under this Act, he shall report his refusal to the District or Subdivisional Magistrate or other officer appointed by the Local Government in this behalf, and such Magistrate or officer as aforesaid may make such arrangements as he may think necessary for ensuring the return of the person and his dependants (if any) to their homes and for their proper housing and

(Chap. III.—Recruitment by Contractors, Sub-contractors and Recruiters.
Secs. 36-40.)

support in the interval. In the case of any male under the age of sixteen years or any female recruited in circumstances which appear to be suspicious, the arrangements may include the provision of an escort home.

(2) Any expenditure incurred under sub-section (1) may be recovered from the contractor or recruiter concerned, or both.

36. The Registering-officer shall furnish to every person registered under section 34, sub-section (2), a certified copy written on substantial paper of the particulars referred to therein.

Copy of registration to be given to labourer.

37. Every Registering-officer registering a person under section 34, sub-section (2), shall forthwith forward a certified copy of the particulars referred to therein and the original certificate of the medical officer regarding the person to the Superintendent having jurisdiction over the dépôt to which the person is to proceed.

Copy of registration and medical certificate to be sent to Superintendent.

38. For every person produced before a Registering-officer for the purpose of being registered under section 34, sub-section (2), the recruiter shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may, by rule, prescribe.

Fee for registration.

39. No recruiter shall remove or attempt to remove any person to a dépôt, or induce or attempt to induce him to go to a dépôt, or to leave the local limits of the jurisdiction of the Registering-officer before whom he ought to be brought under section 33, or aid or attempt to aid him in going to a dépôt, or leaving any such local limits as aforesaid, unless and until he has been registered under section 34, sub-section (2).

Recruiter when to remove person to dépôt.

40. (1) After a labourer has been registered under section 34, sub-section (2), the Registering-officer shall direct the recruiter to convey the labourer with all convenient despatch to a dépôt established by the contractor on whose behalf the recruiter has been licensed and shall specify the dépôt to which the labourer is to be conveyed.

Conveyance of labourer to dépôt.

(2) Every labourer shall, while proceeding to the dépôt, be accompanied throughout the journey either by the recruiter himself or by a competent person deputed by him with the approval of the Registering-officer by whom the labourer has been registered.

(3) The Registering-officer shall give to every person so deputed a certificate, under his signature, stating that he has been deputed for the journey to the dépôt.

(Chap. III.—Recruitment by Contractors, Sub-contractors and Recruiters.
Secs. 41-44.)

Recruiter to
provide food
and lodging
for labourer
on journey.

41. Every recruiter or person deputed by him under section 40, sub-section (2), shall, throughout the journey to the dépôt, provide the labourer and his dependants (if any) with proper and sufficient food and lodging.

Procedure at Contractors' Dépôts.

Contractor to
report arrival
of labourer.

42. Within twenty-four hours after the arrival of a labourer at a dépôt, the contractor by whom the dépôt is maintained, or the person in charge thereof, shall give to the Superintendent, within the local limits of whose jurisdiction the dépôt is situate, a notice in writing, in such form and containing such particulars as the Local Government may, by rule, prescribe, of the arrival of the labourer.

Duties of
Medical
Inspector.

43. (1) The Medical Inspector shall, as soon as may be after the arrival of a labourer at a dépôt, examine the labourer and his dependants (if any) to ascertain that they are in a fit state of health to undertake the journey to the labour-district to which they intend to proceed, and, in the case of the labourer, that he is also not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts.

(2) The Medical Inspector shall give a certificate to the Superintendent stating whether he is or is not satisfied that the labourer and his dependants (if any) are in a fit state of health to undertake the journey, and, in the case of the labourer, that he is also not incapacitated as aforesaid.

On grant of
certificate,
labourer to
enter into
labour-con-
tract.

44. Where the Medical Inspector gives a certificate under section 43, sub-section (2), with respect to any labourer, and there is, in the opinion of the Superintendent, no valid reason why the labourer should not enter into the intended labour-contract, the labourer and the employer with whom he intends to contract, or the person appearing on behalf of the employer, shall, after the lapse of three, and within thirty, days after the date of the arrival of the labourer at the dépôt, execute the labour-contract in the presence of the Superintendent :

Provided that no labour-contract shall be executed as aforesaid except in the district in which the labourer was registered under section 34, sub-section (2), or at such other place within the Province as the Local Government may direct.

(Chap. III.—*Recruitment by Contractors, Sub-contractors and Recruiters.*
Secs. 45-48.)

45. (1) Before any labourer executes a labour-contract under section 44, the Superintendent shall personally explain it to him, and shall, after the same has been executed by him and by his employer or the person appearing on behalf of his employer, attest the labour-contract and certify at the foot thereof that he has personally explained the same to the labourer.

Contract to be explained to labourer by Superintendent, and abstract and copies to be made.

(2) An abstract of every labour-contract so executed shall be entered in a register to be kept by the Superintendent for the purpose; and, after the abstract has been so entered, one copy of the labour-contract shall be given to the labourer and the other to his employer or the agent of his employer.

46. Where the employer with whom any labourer intends to contract, or a person appearing on behalf of the employer, has given notice to the Superintendent that, before any labour-contract is entered into by him or on his behalf with any labourer, the labourer shall be examined by a medical man selected by such employer or person appearing on behalf of the employer and shall be certified by him to be physically and constitutionally fit for labour in the labour-district in which the estate of the employer is situate, the Superintendent shall not permit the labourer to execute a labour-contract, until such medical certificate as aforesaid has been produced and shown to him.

Power for employer to require further medical certificate as to fitness to labour previous to contract.

47. Where the employer or the person appearing on his behalf has directed that the examination referred to in section 46 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the employer or such person such fees as may be agreed upon, or, if no agreement has been entered into, then such fee for each labourer so examined as the Local Government, by general or special order, may direct.

Fee of medical officer when in Government service for examination under section 46.

48. In any of the following cases, namely :—

- (a) where the Medical Inspector, on making the examination required by section 43, sub-section (1), or at any subsequent time during the stay at the depôt of a labourer, finds that the labourer is or has become unfit to undertake the journey to the labour-district to which he intends to proceed, or that the labourer is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, and the Superintendent considers that the labourer has not dishonestly represented himself as fit to undertake the journey; or

Power to cancel contract and order payment of expenses of return of labourer in certain cases.

*(Chap. III.—Recruitment by Contractors, Sub-contractors and Recruiters.
Secs. 49-50.)*

- (b) where the Superintendent finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of a labourer as makes it just to refuse to permit a labour-contract to be executed or to rescind a labour-contract which has been executed ; or
- (c) where the contractor on whose behalf or by whom a labourer has been registered does not, after the lapse of three, and within thirty, days after the date of the arrival of the labourer at the depôt, tender to him a labour-contract for execution under section 44, or the employer or the person appearing on his behalf refuses or neglects to execute the contract as required by that section ;

the Superintendent may cancel the labour-contract executed by the labourer, and in that event, or if no labour-contract has been executed, may order the contractor at once to pay the labourer such reasonable sum as the Superintendent may think necessary to enable the labourer to return to the place at which he was registered or to his native district, as to the Superintendent may seem fit, and such further sum by way of compensation as the Superintendent thinks reasonable ; and may take such other steps as he may think necessary for the conveyance of the labourer to such place or district as aforesaid.

Labourer
when to be
lodged, etc.,
at depôt till
he can re-
turn home.

49. (1) Any labourer who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake the return journey, shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the depôt at the expense of the contractor by whom the depôt is maintained, until he is reported by the Medical Inspector to be fit to undertake the return journey.

(2) Where the contractor negligently or wilfully omits to provide food, lodging, clothing or medical treatment for the labourer, the Superintendent may order the contractor at once to pay such reasonable sum as the Superintendent may think necessary to provide such food, lodging, clothing or medical treatment as aforesaid.

Like provi-
sions in case
of dependants
and relatives.

50. Where an order is made under section 48 with reference to a labourer any person registered as his dependant, or any other labourer, being his or her wife, husband, son or daughter, may claim—

- (a) to be conveyed, at the expense of the contractor, with the labourer, to the same place as the labourer ; and,

(Chap. III.—Recruitment by Contractors, Sub-contractors and Recruiters.
Secs. 51-54.)

- (b) if the labourer is unable to travel, to be fed, lodged, clothed and (if necessary) medically treated in the depôt at the expense of the contractor until the labourer is able to travel;

and the Superintendent may include such expenses as aforesaid in an order made under section 48 or section 49 with respect to the labourer.

51. Where, upon the arrival of a labourer at a depôt, it appears that during the journey to the depôt the labourer or any person registered as his dependant has suffered ill-treatment at the hands of the recruiter or person deputed by the recruiter to accompany the labourer, or that the recruiter or such person as aforesaid has failed to provide the labourer or any person registered as his dependant with proper and sufficient food and lodging, the Superintendent may order the contractor by whom the depôt is maintained to pay the labourer a reasonable sum by way of compensation.

Compensation to labourer for ill-treatment on the journey.

52. Where the Medical Inspector has reason to think that any person registered as the dependant of a labourer is not in a fit state of health to undertake the journey to the labour-district to which the labourer intends to proceed, the Medical Inspector shall so certify to the Superintendent to whom notice of the arrival of the labourer was given. The provisions of sections 48 and 49 shall thereupon apply to the dependant as if he were a labourer, and the Superintendent may make such orders regarding him as he may make under those sections with regard to a labourer.

Procedure when dependant declared unfit to proceed to labour-district.

53. In any such case as is provided for by section 52, the labourer to whom the dependant is attached shall further be entitled, if he or she so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to receive from the contractor at whose depôt he or she arrived, such reasonable sum as the Superintendent may think necessary to enable him or her to return to the place where he or she was registered, or to his or her native district, as to the Superintendent may seem fit. If the labourer so returns, then any other persons registered as his or her dependants, and any other labourer, being his or her wife, husband, son or daughter, shall also be entitled to receive a like sum from the contractor.

Labourer and relatives entitled to be returned with dependant.

54. On the failure of a contractor for the space of twenty-four hours to comply with an order of the Superintendent to pay any sum required to be paid under section 48, section 49, section 50, section 51, section 52 or section 53, the Superintendent may pay the same to or on behalf of the labourer or dependant concerned, and may recover it from the contractor.

Failure of contractor to pay sums ordered to be paid under sections 48 to 53.

(Chap. III.—Recruitment by Contractors, Sub-contractors and Recruiters.

Sec. 55. Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs. 56-58.)

Provisions
as to escort
on journey¹
and way-bill.

55. (1) All labourers despatched from a contractor's dépôt to a labour-district shall during their journey to the place where they are to labour be accompanied by a person appointed by the contractor, and no person shall be so appointed unless he holds a certificate of fitness signed by the Superintendent, who may cancel such certificate for any reason which seems to him sufficient.

(2) Every person appointed under sub-section (1) shall take with him a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe; he shall present the way-bill at all such places and to all such officers as may be thereupon indicated; and he shall carry out all instructions therein contained for his guidance.

CHAPTER IV.

RECRUITMENT BY GARDEN-SARDARS AND LOCAL AGENTS.

Garden-sardars.

Employer
may grant
certificate to
garden-
sardar.

56. (1) An employer may grant to any garden-sardar a certificate authorizing him, in such local area within the limits of a single recruiting district as may be specified in the certificate, to enter into labour-contracts with persons desirous of becoming labourers upon any estate of which the employer is in charge, and may cancel such certificate at any time.

(2) Where any labourer bound by a labour-contract is granted a certificate under sub-section (1), his employment under the certificate shall be deemed to be employment under his labour-contract.

Form and
particulars
to be con-
tained in
such certi-
cate.

57 (1) Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be in such form and shall contain such particulars as the Chief Commissioner of Assam may prescribe in this behalf.

(2) Any employer granting a certificate to a garden-sardar under section 56, sub-section (1), may, before the certificate is accepted and signed as hereinafter provided, specify therein the name of the local agent (if any) to whom the garden-sardar is to report himself for orders, the time within which he is to return to his employer; and such other instructions for his guidance as he may think fit.

Certificate
to be ac-
cepted and
signed in
presence of
Inspector or
Magistrate.

58. Every certificate granted to a garden-sardar under section 56, sub-section (1), shall be accepted and signed by the garden-sardar in the presence of the Inspector or of a Magistrate having jurisdiction over the place where the employer granting the certificate resides.

¹ The Chief Commissioner of Assam is now Lieutenant-Governor of the Province of Eastern Bengal and Assam, see Proclamation No. 2832 of the 1st September, 1905, Gazette of India, 1905 Pt. I, p. 636.

(Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs.
59-62.)

59. The Inspector or Magistrate shall inquire into the facts stated in the certificate, and, upon being satisfied of the truth of the facts so stated, shall, unless it appears to him that the person so accepting and signing the certificate is not employed on an estate of which the person granting the certificate is in charge or is, by character or from any other cause, unfitted to be a garden-sardar, countersign and date the certificate.

60. (1) On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardar, the Inspector or Magistrate may, without requiring the appearance of the garden-sardar or making the inquiry prescribed by section 59, countersign a fresh certificate to be granted by the employer to the garden-sardar in renewal of any existing certificate.

(2) Every fresh certificate granted under sub-section (1) shall be forwarded by the Inspector or Magistrate countersigning it to the District Magistrate of the district in which the garden-sardar to whom it is granted is employed; and the garden-sardar shall, on receiving notice from such District Magistrate as aforesaid, appear before him or any Magistrate specified in the notice and accept and sign the fresh certificate in his presence.

61. No certificate granted to a garden-sardar under this Chapter shall come into force unless and until it has been accepted and signed by the garden-sardar and countersigned by the Inspector or Magistrate having jurisdiction over the place where the employer granting the certificate resides, and also by the District Magistrate of the district in which the garden-sardar is authorized by the certificate to enter into labour-contracts, and no certificate so granted shall continue in force for a longer period than one year from the date of its countersignature by the said Inspector or Magistrate.

62. (1) Every garden-sardar shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a labour-district.

(2) The District or Subdivisional Magistrate shall visit and inspect the accommodation so provided; and every garden-sardar or other person in charge of a place in which accommodation is so provided shall afford to such Magistrate every facility for visiting and inspecting it.

(3) The District or Subdivisional Magistrate may delegate the duty imposed on him by sub-section (2) to a Subordinate Magistrate or to an officer of police above the rank of sub-inspector.

(Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs. 63-65.)

(4) In every such place as aforesaid the garden-sardar¹ providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe.

Cancellation
of certificate
in certain
cases.

63. (1) Where a garden-sardar commits a breach of any of the provisions of this Act or the rules thereunder, the Inspector or Magistrate who countersigned his certificate, or the District Magistrate who countersigned the certificate under section 61, or the Superintendent within whose jurisdiction the garden-sardar is employed, may cancel the certificate.

(2) Whenever one of the officers aforesaid cancels a certificate, he shall give notice of the fact to the other officers mentioned in sub-section (1) and to the employer of the garden-sardar; and, whenever such a certificate is cancelled by the employer, notice of the fact shall be given by him to the officers aforesaid.

(3) When the certificate of a garden-sardar is cancelled under this section, any labourers or other persons of whom he is in charge may be forwarded to their destination under the care of any person appointed by the employer for that purpose and approved by the Superintendent.

Local Agents.

Licensing
and duties
of local
agents.

64. (1) Any Superintendent authorized in this behalf by the Local Government may, on the application of one or more employers, grant licenses to suitable persons to be local agents for the purpose of representing employers in all matters connected with the supervision of garden-sardars under this Chapter or section 90 or section 91 within such local area and for such period as the employer or employers so applying may desire:

Provided that no contractor and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a local agent.

(2) A local agent shall furnish such information and make such returns as the Local Government may, by rule, prescribe.

Selecting
agent.

65. Any Superintendent authorized in this behalf by the Local Government may, on the application of one or more employers, grant licenses, for such period as the employer or employers may desire, to suitable persons to be selecting agents for the selection, on behalf of the employer or employers, of labourers recruited by contractors, and such selecting agent shall furnish such information and make such returns as the Local Government may by rule prescribe:

(Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs. 66-68.)

Provided that no contractor or local agent and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a selecting agent :

Provided also that no such license shall be granted for more than one year from the date thereof :

Provided also that a license granted under this section may be cancelled by the Superintendent for any reason which seems to him sufficient.

66. Where any garden-sardar to whom a certificate has been granted under this Chapter by an employer commits any offence punishable under this Act, any local agent of the employer may prosecute the garden-sardar for that offence.

Prosecution of garden-sardars by local agents.

67. (1) The District Magistrate of any district within which a local agent acts as such may, by order in writing, cancel the license of the local agent if the employer so requires, or if it is shown to the satisfaction of the District Magistrate that the local agent has—

Cancellation of licenses of local agents.

- (a) employed any contractor's recruiter to recruit or engage on his behalf persons to be labourers ; or
- (b) permitted persons engaged as labourers by or on behalf of any contractor to use the accommodation provided for the persons engaged as labourers by any garden-sardar under the local agent's control ; or
- (c) allowed any garden-sardar under his control to transfer persons engaged as labourers by the garden-sardar to contractors or to their recruiters or to any employer other than the employer by whom the garden-sardar's certificate was granted ; or
- (d) himself taken over persons engaged as labourers by any garden-sardar with intent to despatch them to any employer other than the employer by whom the garden-sardar's certificate was granted.

(2) A local agent may, within three months next after the date of any order of a District Magistrate cancelling his license under sub-section (1), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

Procedure to be followed by garden-sardars.

68. Every garden-sardar who desires to engage any person as a labourer shall appear with the person, together with any others about to proceed to a labour-district as his dependants, before the Registering-officer having jurisdiction within the local area specified in the certificate of the garden-sardar or before such other Registering-officer as the Local Government may appoint for that local area.

Garden-sardar and labourer to appear before Registering-officer for registration.

(Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs. 69-71.)

Examination and registration of persons engaged by garden-sardar.

69. (1) The Registering-officer shall thereupon inspect the certificate of the garden-sardar, and, if he finds that the certificate is in force, shall examine, with reference to the intended labour-contract, the person brought before him under section 68 whom it is desired to engage as a labourer, and explain the intended labour-contract to him.

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract and understands the nature of the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

Medical examination.

70. (1) Where it appears to the Registering-officer that any person brought before him under section 68 is not in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, the Registering-officer may, before registering him under section 69, sub-section (2), if himself a medical man, medically examine him, or, if not himself a medical man, send him to a medical man for medical examination.

(2) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour-district or, in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour-districts, the Registering-officer may refuse to register him.

Fee to be paid for every labourer produced for registration.

71. For every person brought before a Registering-officer under section 68 for the purpose of being registered as a labourer, the garden-sardar who appears with him shall pay to the Registering-officer such fee, not exceeding one rupee, as the Local Government may direct.

(Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs. 72-74.)

72. (1) Where a person has been registered under section 69, sub-section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour-contract with the employer with whom he intends to contract. Labour-contract to be executed.

(2) The labour-contract shall be signed in the presence of the Registering-officer by the person so registered and, on behalf of the employer, by the garden-sardar who appears with him before the Registering-officer. The Registering-officer shall satisfy himself that the labour-contract is in accordance with any instructions specified in the certificate of the garden-sardar; and, if he is so satisfied, shall, before the labourer signs the labour-contract, personally explain it to him and, after it has been executed as aforesaid, attest it, and certify at the foot thereof that he has personally explained it to the labourer.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the garden-sardar or local agent.

(4) Where any garden-sardar, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2) within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering-officer may order the garden-sardar to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering-officer may think fit.

73. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering-officer shall register as a labourer any person appearing before him with the garden-sardar until such medical certificate as aforesaid has been produced and shown to him. Procedure when employer requires medical examination previous to registration.

74. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-sardar such fee, for each Fee of medical officer when in Government service for examination under section 73.

(Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs. 75-79.)

labourer so examined, as may be agreed upon, and, if no agreement has been entered into, such fee as the Local Government, by general or special order, may direct.

Garden-sardar when to remove labourer to labour-district.

75. Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72, no garden-sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area, or aid or attempt to aid him in proceeding to a labour-district.

Garden-sardar to accompany labourers or send competent person with them.

76. (1) A garden-sardar shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour-contract was entered into, to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered.

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding.

No restriction on number of persons engaged by garden-sardar.

77. A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour-districts.

Appointment in certain cases of garden-sardar to accompany labourers not engaged by him.

78. A garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if the employer has no local agent, with the previous consent in writing of the employer, be appointed under section 76 as a competent person to accompany labourers other than those engaged by him.

Provision for way-bill.

79. (1) Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall present to the officer before whom the labourers have executed a contract under section 72 a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe.

(Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs. 80-83.)

(2) Every such garden-sardar or other person as aforesaid shall also present the way-bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions therein contained for his guidance.

80. Every garden-sardar or person appointed by him as aforesaid who accompanies labourers to the labour-districts shall provide the labourers and their dependants (if any) with proper and sufficient food and lodging throughout the journey.

Garden-sardar to provide food and lodging for labourers and dependants on journey.

81. Where it appears to any Magistrate, on the complaint of a labourer at any place on the journey, that the labourer or any person registered as his dependant has suffered ill-treatment during the journey at the hands of the garden-sardar or person appointed by the garden-sardar accompanying the labourer, or that the garden-sardar or person so appointed has failed to provide the labourer or any of his dependants with proper and sufficient food and lodging, or has wilfully abandoned the labourer or any of his dependants, the Magistrate may either order the garden-sardar or person so appointed to pay to the labourer a reasonable sum by way of compensation, or may cancel the labour-contract entered into by the labourer and order the garden-sardar or person so appointed to pay to the labourer such reasonable sum as the Magistrate may think necessary to enable him with his dependants (if any) to return to the place at which he was registered, or to his native district, as to the Magistrate may seem fit.

Power for Magistrate in certain cases to award compensation or cancel contract.

82. On the failure for the space of twenty-four hours of any garden-sardar or person appointed by him as aforesaid to comply with an order made under section 81 to pay any sum, the Magistrate may pay the same to or on behalf of the labourer concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Procedure on failure of garden-sardar to comply with order.

83. Any Magistrate or Embarkation Agent may, if himself a medical man, medically examine, and, if not himself a medical man, send for medical examination by a medical man, any labourer or dependant who, while on the journey to the district to which he intends to proceed, appears to the Magistrate or Embarkation Agent, as the case may be, not to be in a fit state of health to proceed thereto.

Medical inspection of labourers en route.

(Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs. 84-85.)

Detention
and return of
labourer
declared
when en
route to be
unfit to
travel.

84. (1) Where any labourer or dependant is, on examination under section 83, declared not to be in a fit state of health to undertake the journey to the labour-district to which he intends to proceed, the Magistrate or Embarkation Agent may order the labourer or dependant to be detained at such place as he may think proper until in a fit state of health to undertake the journey.

(2) In any such case as is provided for by sub-section (1), the labourer or dependant, when in a fit state of health to undertake the journey shall, if the garden-sardar or person appointed by the garden-sardar accompanying him, or the employer by whom the certificate of the garden-sardar was granted, or his local agent, so wishes, be forwarded to the labour-district, or, if otherwise, to his native district or the place where he was registered as to the Magistrate or Embarkation Agent may seem fit.

(3) While any labourer or dependant is detained under sub-section (1), he shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the expense of the employer with whom the labourer, or the labourer to whom the dependant is attached, has contracted to labour.

Dependants
of labourer
when to be
fed, etc.

85. (1) Where an order under section 84 has been made with reference to any labourer, any person registered as his dependant, and any other labourer being his or her wife or husband, shall be entitled—

(a) until the labourer is in a fit state of health to undertake the journey, to be fed, lodged, clothed and (if necessary) medically treated at the place where the labourer is detained, and at the cost of the employer with whom the labourer has contracted to labour, and

(b) to be sent back to the same place (if any) as the labourer.

(2) Where an order has been made under sub-section (1) with reference to any dependant, the labourer to whom the dependant is attached shall thereupon, until the dependant is in a fit state of health to undertake the journey to the labour-district, be entitled, if the labourer so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained and at the cost of the employer with whom the labourer has contracted to labour; and the labourer shall, if he or she so wishes and if he or she is the husband, wife, son or daughter of the dependant, be sent back to the same place (if any) as the dependant.

(Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs. 86-87.)

(3) Where a labourer is entitled and claims to be so fed, lodged, clothed and (if necessary) medically treated, or to be so sent back, any person registered as his or her dependant, and any other labourer, being the wife or husband of the labourer, shall be entitled, as the case may be—

(a) to be fed, lodged, clothed and (if necessary) medically treated at the place where the dependant is detained, and at the cost of the employer, until the dependant is in a fit state of health to undertake the journey to the labour-district, or

(b) to be sent back to the same place as the labourer.

86. Where a garden-sardar or person appointed by a garden-sardar accompanying any labourer or dependant fails to provide the labourer or dependant with food, lodging, clothing and medical treatment, or to send him back as required by section 84 or section 85, the Magistrate or Embarkation Agent may order the garden-sardar or person so appointed to pay such sum as the Magistrate or Embarkation Agent, as the case may be, may think necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return-journey of the labourer or dependant; and, on failure for the space of twenty-four hours of the garden-sardar or person so appointed to comply with the order, the Magistrate or Embarkation Agent, as the case may be, may pay the sum specified in the order to or on behalf of the labourer or dependant concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted, or from the local agent of the employer.

Payment of expenses of detention and return-journey of labourer.

87. (1) Where a labour-contract has been executed by a garden-sardar on behalf of his employer, any local agent or other representative of the employer may require the labourer to appear before the Superintendent for the cancellation of his labour-contract.

Representative of employer may procure order from Superintendent cancelling the labour-contract on payment of expense of return.

(2) If, when the labourer appears under sub-section (1), such reasonable sum as the Superintendent may think necessary to enable the labourer and his dependants (if any) to return to the native district of the labourer or to the place at which he was registered, as to the Superintendent may seem fit, and such further sum (if any) by way of compensation as the Superintendent may think reasonable, are paid to the labourer in his presence, the Superintendent may declare the labour-contract cancelled, and, in that event, shall make an endorsement to the like effect on the labourer's copy of the labour-contract, and attest the endorsement with his signature.

(Chap. IV.—Recruitment by Garden-sardars and Local Agents. Secs. 88-89.

Chap. V.—Engagement of Emigrants otherwise than under Chaps. III and IV. Sec. 90.)

Cancellation
of contracts
of relatives.

88. (1) Where the Superintendent declares the labour-contract of any labourer to be cancelled, any other labourer who is the wife, husband, father, mother, son or daughter of the labourer and has entered into a labour-contract at the same place with the same employer, may claim to have her or his labour-contract cancelled at the same time.

(2) Where a claim is made under sub-section (1), the Superintendent shall declare the labour-contract of the claimant to be cancelled, and shall order the local agent or representative of the claimant's employer to pay to the claimant such reasonable sum as the Superintendent may think necessary to enable him and his dependants (if any) to return to the same place as the labourer.

(3) On the failure for the space of twenty-four hours of the local agent or representative to comply with an order made under sub-section (2), the Superintendent may pay the sum specified in the order to or on behalf of the claimant concerned, and may recover the same from the employer by whom the certificate of the garden-sardar was granted, or from the local agent or representative who appears on behalf of the employer.

Cost of escort
for repa-
triated
labourer.

89. When an order is made under sections 81, 86 or 88 for payment of the costs of the return journey of any labourer or other person, the Magistrate may order the garden-sardar or other person liable in respect of such costs to pay also the cost of providing such escort to accompany the labourer or other person during his return journey as the Magistrate may think necessary.

CHAPTER V.

ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER CHAPTERS III AND IV.

Special pro-
visions as
to engage-
ment of
emigrants
through
garden-
sardars.

90. When a notification has been published under section 3, prohibiting the recruiting, engaging, inducing or assisting, natives of India, or any specified class of natives of India, to emigrate from the whole or any specified part of a Province to any labour-district or any specified portion of a labour-district otherwise than in accordance with the provisions of this Act therein specified, the Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette¹, declare that specially

¹ For notification by the Government of the United Provinces, see United Provinces Gazette 1905. Pt. I, p. 233.

(Chap. V.—Engagement of Emigrants otherwise than under Chapters III and IV. Sec. 90.)

employed garden-sardars, not being garden-sardars holding certificates granted under Chapter IV, may, in the part of the province specified in the notification under section 3, engage persons on behalf of their employers and assist persons so engaged to emigrate to such labour-district or specified portion of a labour-district subject to the following provisions, namely :—

- (a) The employer shall grant each garden-sardar specially employed by him under this section a permit in writing, in such form as the¹ Chief Commissioner of Assam may by rule prescribe, signed and dated, specifying the name of the garden-sardar and the recruiting district in which alone the garden-sardar may engage persons on behalf of his employer and assist them to emigrate : Provided that no such permit shall be granted to a garden-sardar who has not resided at least six months on the estate of the employer.
- (b) The employer shall in the permit certify that the garden-sardar named therein is a person employed on his estate, and shall specify the nature of his employment and the period of his residence on the estate.
- (c) Every permit shall be presented by the garden-sardar named therein in person for countersignature to the Inspector or to the Magistrate having jurisdiction in the place where the garden-sardar resides, and shall not be valid or have effect unless and until it is so countersigned.
- (d) The Inspector or Magistrate may refuse to countersign any permit, for any reason, to be recorded in writing which he may think sufficient, and shall refuse to countersign a permit unless he is satisfied that the garden-sardar named therein is employed on the estate of his employer and has resided at least six months on the estate and is a fit person to engage persons and assist them to emigrate.
- (e) When a permit is duly countersigned the garden-sardar named therein may proceed to the recruiting district and there himself engage persons on behalf of his employer and assist them to emigrate, subject to the provisions of this Chapter.

¹ The Chief Commissioner of Assam is now Lieutenant-Governor of the Province of Eastern Bengal and Assam, see Proclamation No. 2832, dated the 1st September, 1905, *Gazette of India*, 1905, Pt. I, p. 636.

(Chap. V.—Engagement of Emigrants otherwise than under Chapters III and IV. Sec. 91.)

- (f) Every garden-sardar so authorized shall, on his arrival in the recruiting district and before he engages any person to emigrate, " in person or in writing, report his arrival, and the place at which he intends principally to reside, to the District or Sub divisional Magistrate, and shall, at least three days before his departure from the recruiting district, similarly report his intended departure and furnish a list, in such form as the Local Government may prescribe, containing the names and descriptions of the persons whom he has engaged and is assisting to emigrate.
- (g) Every garden-sardar shall either himself accompany all persons so engaged by him to the labour-district in which the estate of his employer is situate, or send them there in charge of another garden-sardar holding a permit under this section from the same employer to engage persons in the same recruiting district.
- (h) No permit shall have effect for more than six months from the date of countersignature by the Inspector or Magistrate as aforesaid.
- (i) Any permit granted under this section may be cancelled in the recruiting district by the District Magistrate for any reason, to be recorded in writing, which he may think sufficient. The fact of cancellation shall be endorsed by such Magistrate as aforesaid on the permit, and the permit shall thereupon become invalid and cease to have effect. A District Magistrate who cancels a permit under this clause shall give notice of such cancellation to the employer by whom it was signed and to the Inspector or Magistrate by whom it was countersigned.

91. The Local Government may, by notification ¹ in the local official Gazette, declare, in the case of any specified agency or any association of employers for purposes of engaging persons to emigrate formed and conducted in accordance with rules approved by the Local Government,—

- (a) that garden-sardars working in the Province under the control of such agency or association as aforesaid and holding permits granted and countersigned under section 90 may, subject to such conditions as may be prescribed in the notification, engage persons and assist them to emigrate; and

Special provisions as to engagement of emigrants through approved agencies or associations.

¹ For notification as to garden-sardars employed by the Tea Districts Labour Association Calcutta, see United Provinces Gazette, 1905. Pt. I, p. 293.

(Chap. V.—Engagement of Emigrants otherwise than under Chapters III and IV. Secs. 92-93.)

(b) that, in the case of garden-sardars holding certificates under Chapter IV and working in the Province under such control as afore-said, any of the requirements of that Chapter may be dispensed with or relaxed in such manner as may be prescribed in the notification.

92. Subject to the provisions of section 3 and of any notification issued thereunder, nothing in this Act shall be deemed to prohibit any person from engaging or assisting natives of India to emigrate to a labour-district otherwise than in accordance with the provisions of Chapters III and IV and of sections 90 and 91.

Saving of engagement of emigrants otherwise than under foregoing provisions of Act.

93. *First.*—The following provisions of this Act shall apply to the transport and employment of persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts, namely :—

Application of Act to persons engaged under this Chapter.

(a) in CHAPTER VI (TRANSPORT) :—

- (i) sections 94 and 95 (routes and transport by sea) ;
- (ii) sections 96 to 99 (passenger licenses) ;
- (iii) sections 100 and 101 (Embarkation Agent's powers and returns by master) ;
- (iv) section 103 (medical officer) ;
- (v) section 104 (delay in departure) ;
- (vi) sections 107 to 110 (Magistrates' powers) ;
- (vii) section 112 (disinfection) ;
- (viii) section 113 (excess passengers) ;
- (ix) section 114 (breaches of Act and rules) ; and
- (x) section 116 (delegation of magisterial powers) ;

(b) in CHAPTER VII (LABOUR-DISTRICTS) :—

- (i) section 122 (registers and returns) ;
- (ii) section 123 (inspection) ; and
- (iii) sections 159, 161 and 162 (repatriation) ;

(c) in CHAPTER VIII (RULES) :—

all powers conferred by section 163, except in so far as the same relate exclusively to labourers and their dependants ;

(d) in CHAPTER IX (PENALTIES AND PROCEDURE) :—

- (i) sections 176, 177, 181, 182 and 183 (offences connected with transport by river) ; and
- (ii) sections 185 and 186 (offences by employers) ; and

(Chapter VI.—Transport. Sections 94-98.)

(e) in CHAPTER X (MISCELLANEOUS) :—

(i) section 215 (recovery of sums due) ; and

(ii) sections 218 to 223 (fines, etc., Assistant Inspector, officers' powers, exemption, prior notifications, and repeal).

(2) Except as indicated in sub-section (1), nothing in Chapters II to IV inclusive or in Chapters VI to X inclusive shall apply to persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts.

CHAPTER VI.

TRANSPORT.

Routes, etc.

Routes to be followed and rules observed.

94. Every person who forwards or accompanies labourers or emigrants under Chapter V or their dependants to a labour-district shall forward or take them by the prescribed route, or one of the prescribed routes, and shall conform to the rules made under this Act, in so far as the said rules apply to himself and to the persons emigrating under his charge.

Transport by River.

Transport by sea to labour-districts.

95. Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour-districts.

Vessels to carry more than twenty passengers to be ordinarily licensed.

96. (1) No master shall receive more than twenty passengers, being natives of India, on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in his vessel has been granted to him under this Chapter by an Embarkation Agent duly empowered in that behalf by the Local Government.

(2) The Local Government may, by notification in the local official Gazette, exempt from the provisions of this section any vessel or class of vessels.

Application for license.

97. (1) The master or owner of any vessel who desires to obtain a license under this Chapter to carry passengers in his vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid.

(2) Every application made under sub-section (1) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe.

Grant of license.

98. Where the Embarkation Agent to whom an application is made under section 97, sub-section (1), is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he

(Chap. VI.—Transport. Secs. 99-103.)

shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board.

99. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of the vessel, by rule, direct, shall be paid for every license granted under section 98, and no license so granted shall be in force for more than one voyage: fee for license.

Provided that a license may, with the previous sanction of the local Government, be granted under the said section to the master of any vessel for any term not exceeding one year, on payment of such fee, not exceeding one hundred rupees, and on such conditions as the Local Government may, by rule, prescribe.

100. (1) Any Embarkation Agent may, in accordance with such rules as the Local Government may make in this behalf, direct, by order in writing, that, on any particular voyage or part of a voyage, any master licensed under this Chapter shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to the master. Embarkation Agent may limit number to be received on board on any particular voyage.

(2) In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this Chapter, be reckoned as one person only.

101. Every master licensed under this Chapter shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel, as the Local Government may, by rule, prescribe. Master to make returns.

102. Every master licensed under this Chapter shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe. Provisions, clothing, medical and other officers, cooks, etc.

103. No medical officer shall be appointed to any vessel in respect of which a license is granted under this Chapter, unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such a requisition. Medical officer to be licensed.

(Chap. VI.—Transport. Secs. 104-107.)

Departure of Passenger-vessels and Procedure during Voyage.

Embarkation Agent may order departure of vessel if delay occurs.

104. Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted under this Chapter is unduly delayed beyond the date fixed by the order of a Superintendent or of the Local Government, or notified by advertisement in the public press, for such departure, he may order the master of the vessel to proceed on his voyage at once.

Master to receive way-bills from Embarkation Agent.

105. (1) No master licensed under this Chapter shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relating to all labourers on board in respect of whom way-bills are required by this Act or by the rules made thereunder.

(2) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of such labourers on board corresponds with the number entered in the way-bill.

(3) The Embarkation Agent shall send a copy of every way-bill granted under sub-section (1) to the Magistrate of the labour-district to which such labourers are proceeding.

Labourers not finally to leave vessel at any place other than that mentioned in way-bill.

106. No master licensed under this Chapter shall cause or permit any labourer entered in any such way-bill finally to leave his vessel at any place other than that named in the way-bill as the destination of the labourer :

Provided that nothing in this section shall be deemed to prevent the master of a vessel from permitting such labourers to disembark at any place on the voyage so long as the disembarkation is not intended, or known to be likely, to be final, nor to prevent the final disembarkation of any such labourers or the transfer of such labourers with their dependants to another vessel in case of accident or unavoidable necessity :

Provided also that every such accident or necessity as aforesaid shall forthwith be reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which the accident has occurred or the necessity has arisen.

Master to stop his vessel at certain places where there is a Magistrate.

107. (1) Every master licensed under this Chapter shall stop his vessel carrying passengers, being natives of India, at such places, being places where a Magistrate is stationed, and shall, unless the Magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct.

• (Chap. VI.—Transport. Secs. 108-111.)

(2) The master shall, on arriving at such a place as aforesaid, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.

108. (1) Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, go on board the vessel and inspect it and all persons, being natives of India, on board.

Power for Magistrates to inspect vessels.

(2) The master and officers of any such vessel as aforesaid shall afford to the Magistrate every facility for inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths (if any) which have occurred on board, and any other facts affecting the health of the passengers.

109. Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, regulate the communication between the vessel and the land, and prohibit all persons from leaving the vessel, and all persons on land from proceeding on board.

Power for Magistrates to regulate communication between vessels and land.

110. (1) Any Magistrate may, if he has reason to believe that any passengers, being natives of India, on board a vessel within the local limits of his jurisdiction, in respect of which a license is granted under this Chapter are, or are likely to be, affected with any dangerously infectious or contagious disease, detain the vessel and depute the civil medical officer of the district or any other qualified medical officer to inspect such passengers as aforesaid and to report on their health, stating whether any or what measures are requisite for the removal or prevention of the dangerously infectious or contagious disease.

Power for Magistrates to detain vessels for inspection and to detain sick native passengers.

(2) On receiving the report of the medical officer so deputed, the Magistrate may order any such passenger as aforesaid who is suffering from any dangerously infectious or contagious disease to be disembarked and detained for medical treatment.

111. (1) Where, on receiving the report of a medical officer deputed under section 110, sub-section (1), it appears to a Magistrate that a labourer or any dependant of any such labourer, though not suffering from a dangerously infectious or contagious disease, is not in a fit state of health to proceed to the labour-district in which the labourer has contracted to labour, he may

Detention of sick labourers by Magistrate.

(Chap. VI.—Transport. Secs. 112-115.)

order the labourer or dependant to be detained, and shall cause all necessary arrangements to be made for his accommodation, support and medical treatment.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer of the labourer concerned.

Power for
Magistrate
to detain
vessel to be
cleansed and
disinfected.

112. (1) Where, in the opinion of a medical officer deputed under section 110, sub-section (1), it is dangerous to the health of the general body of the passengers to allow the vessel to proceed until measures have been taken to cleanse and disinfect her, the Magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out those measures.

(2) Any expenditure incurred under sub-section (1) may be recovered from the master or owner of the vessel.

Measures to
be taken if
excess
number of
native pas-
sengers is
found on
board.

113. (1) Where it appears to a Magistrate making an inspection of a vessel, in respect of which a license is granted under this Chapter, that the number of passengers on board, being natives of India, is larger than the number specified in the license or than the number specified in an order of an Embarkation Agent made under section 100, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found.

(2) Any expenditure incurred in maintaining passengers detained under sub-section (2) and in forwarding them to their destination may be recovered from the master or owner of the vessel.

Infraction of
the Act and
rules to be
reported.

114. Where it appears to a Magistrate making an inspection of a vessel in respect of which a license is granted under this Chapter, that any of the provisions of this Act or of any rule thereunder have not been complied with in respect of the vessel, he shall report the fact to the Embarkation Agent by whom the license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions as aforesaid have been so complied with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.

115. (1) The Local Government may make rules to regulate—

- (a) the disembarkation of labourers and their dependants, and their inspection and accommodation on arrival at their destinations;
- (b) the detention of labourers and their dependants at debarkation-depôts;

Power to
make rules
regulating
disembarka-
tion and
other mat-
ters.

(Chap. VI.—Transport. Sec. 116. Chap. VII.—Provisions as to the Labour-districts. Secs. 117-118.)

(c) the forwarding of labourers to their destinations and the closing and return of way-bills by employers.

(2) Any expenditure incurred in pursuance of any rules made under sub-section (1) may be recovered from the employers of the labourers concerned.

116. The District or Subdivisional Magistrate may authorize any subordinate Magistrate, medical officer or officer of police above the rank of Sub-inspector to exercise the powers and authorities conferred, and to perform the duties imposed, on a Magistrate under sections 107 to 114.

Deputation of other officer to discharge the functions of a Magistrate under sections 107 to 114.

CHAPTER VII.

PROVISIONS AS TO THE LABOUR-DISTRICTS.

Annual Rate payable by Employers.

117. (1) Every employer shall, on the first day of January and the first day of July in each year, pay in respect of each labourer then in his employ such rate, not exceeding an annual sum of one rupee, as the Local Government may, by notification in the local official Gazette, direct.

Annual rate payable by employer.

(2) On the failure of an employer, for the space of one month after the receipt of a notice in such form and served in such manner as the Local Government may prescribe, to pay any sum due under sub-section (1), the same may be recovered from him.

Local Labour-contracts.

118. (1) Any employer may enter into a labour-contract for a term, not exceeding one year commencing from the date of the execution of the labour-contract, with any native of India within the labour-district in which the estate to which the labour-contract refers is situate.

Labour-contracts executed in labour-districts between employer and native direct.

(2) Where an employer has under sub-section (1) executed a labour-contract within a labour-district, he shall, within one month from the date of the execution of the labour-contract, forward it in duplicate to the Inspector within the local limits of whose jurisdiction the estate is situate. On receipt of the labour-contract so forwarded, the Inspector shall enter an abstract thereof in a register, to be kept by him for the purpose, and shall then give one copy of the labour-contract to the labourer and the other to his employer.

(Chap. VII.—Provisions as to the Labour-districts. Secs. 119-121.)

Verification
and cancella-
tion of such
contracts.

119. When, for the first time after the registration, under section 118, subsection (2), of a labour-contract with a labourer, the Inspector visits the estate on which the labourer is employed, the employer shall cause the labourer to appear before the Inspector for the purpose of having his contract verified, and the labourer may thereupon apply to the Inspector to cancel his labour-contract; and, if the labourer shows cause sufficient, in the opinion of the Inspector, to justify the cancellation of his labour-contract, the Inspector shall cancel the same and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

Power of
Inspector or
Magistrate
to require
labourer who
has executed
such contract
to appear
before him.

120. The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer who has entered into a labour-contract under section 118 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his labour-contract verified; and, if the labourer applies to the Inspector or Magistrate to cancel his labour-contract and shows cause which the Inspector or Magistrate, after considering any cause which may be shown by the employer to the contrary, considers sufficient to justify its cancellation, the Inspector or Magistrate shall cancel the same as provided by section 119.

Labour-con-
tracts exe-
cuted within
labour-dis-
trict before
Inspector or
Magistrate.

121. (1) Notwithstanding the provisions of section 118, an employer may enter into a labour-contract with any native of India in a labour-district for a term not exceeding four years commencing from the date of the execution of the labour-contract, if he appears, or deposes some person to appear on his behalf, with the native of India before the Inspector or Magistrate within the local limits of whose jurisdiction the estate to which the labour-contract refers is situated.

(2) The Inspector or Magistrate shall thereupon explain the labour-contract to the native of India, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or the person deputed as aforesaid to execute it in his presence; and, if they execute it, shall attest the execution with his signature.

(3) An abstract of every labour-contract executed under this section shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of the labour-contract shall then be given to the labourer and the other to his employer or the person deputed as aforesaid.

(Chap. VII.—Provisions as to the Labour-districts. Secs. 122-124.)

(4) In respect of every labour-contract, an abstract whereof is registered under section 118 or under this section, the employer who executes the labour-contract in person or the person deputed to execute the same on his behalf shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

Employers' Returns and Magistrates' Inspections.

122. (1) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, and of their dependants, in such form, and shall make to the Inspector, within the local limits of whose jurisdiction the estate is situate, such periodical returns in writing, as the Local Government may, by rule, prescribe.

Registers to be kept and returns made by employers.

(2) The Inspector may examine the registers so kept and muster all labourers and other persons employed on any estate within the said local limits, and may verify the accuracy of the entries in the registers, or in any prescribed periodical return.

123. Any Inspector or Magistrate, or any person authorized by either of them in writing in this behalf, may enter and inspect all lands and houses wholly or partially used by or for labourers, or by or for any other natives of India employed on any estate, and may require that all such labourers or other natives of India as aforesaid, or any particular class or classes or individual or individuals of them, shall be brought before him, and that a copy of the labour-contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives of India as aforesaid or any of them; and the employer shall be bound to comply with every requisition and to answer every inquiry so made to the best of his ability.

Power for Inspector, etc., to inspect lands and houses and to make requisitions and inquiries.

Regulation of Labour.

124. (1) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which the employer is in charge, and may, from time to time, alter any schedule so prepared.

Schedule of daily tasks to be prepared.

(2) One copy of every schedule prepared under sub-section (1) shall be filed in a book, which shall be open to the examination of the Inspector, and translations thereof, in such languages as the¹ Chief Commissioner of Assam may direct, shall be affixed in some conspicuous place accessible to the labourers to whom the schedule relates.

¹ The Chief Commissioner is now Lieutenant-Governor of the Province of Eastern Bengal and Assam, see Proclamation No. 2832, dated the 1st September, 1905, *Gazette of India*, 1905, Part I, p. 636.

(Chap. VII.—Provisions as to the Labour-districts. Secs. 125-126.)

(3) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month. The number of working days in a month shall be ascertained by deducting the number of Sundays from the whole number of days in the month.

Limitations
on tasks and
payment of
wages.

125. (1) No labourer shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day.

(2) Every employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage; and, failing such due provision of work, the labourer shall, if he can show that he was able and willing to labour for the same, be entitled to claim his minimum daily wage.

(3) On or before the fifteenth day of each month the employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid.

Provisions
for revision
of schedule
by Inspector
subject to
appeal to
Committee.

126. (1) Where the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing, direct that such reduction as is specified in the order be made in the scheduled daily tasks.

(2) The employer shall at once make the reduction so ordered, but may, if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to summon a Committee to inquire into the schedule.

(3) Every Committee summoned under sub-section (2) shall consist of—

- (a) the Inspector,
- (b) some person to be nominated by the employer whose schedule is to be inquired into, and,
- (c) if practicable, a medical officer.

(4) Where the employer fails to nominate a person within seven days after being thereunto requested in writing by the Inspector, the Inspector, instead of the employer so failing, may nominate a person.

(5) Where the Committee consists only of the Inspector and of a person nominated by the employer or Inspector, the Inspector shall have the casting vote.

(Chap. VII.—Provisions as to the Labour-districts. Secs. 127-130.)

127. (1) Where the Committee, or a majority thereof, is of opinion that the scheduled daily tasks or any of them are unreasonable, the Committee shall order them to be modified and reduced in such manner as it may think fit. Committee to revise schedule.

(2) The employer shall thereupon alter the schedule accordingly, and copies and translations of the same so altered shall be filed and affixed in the manner provided by section 124, and shall, as between him and the labourers concerned, take the place of the former schedule.

128. (1) Notwithstanding anything contained in any schedule of daily tasks, the Inspector may order that any specified labourer, who is, in his opinion, unable from weakness to earn by his labour the sum of one anna-and-a-half per diem, according to the schedule, shall receive, in lieu of actual earnings, subsistence-allowance at the rate of one anna-and-a-half per diem, or diet on a scale to be approved by the Inspector. Provision for weakly labourers.

(2) Any subsistence-allowance order under sub-section (1) may be recovered from the employer of the labourer concerned.

Incapacity for Labour.

129. (1) The Inspector within the local limits of whose jurisdiction a labourer is employed may release the labourer, for such period as he thinks fit, from performing his labour-contract, if he is, in the opinion of the Inspector, temporarily unfitted, by reason of sickness or any other sufficient cause, for the performance thereof. Inspector may suspend contract of any labourer temporarily unfitted for labour.

(2) Every release granted under sub-section (1) shall be endorsed by the Inspector on the labour-contract, and the time during which the release continues shall not be reckoned as part of the term for which the labourer is bound to serve.

(3) Every labourer released as aforesaid shall, during the release, receive such subsistence-allowance from his employer as the Inspector may think sufficient.

130. (1) Where any labourer is compelled, by reason of sickness, to absent himself from work, he shall receive from his employer, for each day on which he is so absent, subsistence-allowance at the rate of one anna-and-a-half, or, if in hospital, sick-diet on a scale to be approved by the Inspector. Labourer absent from sickness.

(Chap. VII.—Provisions as to the Labour-districts. Sess. 131-132.)

(2) Where the period during which a labourer is so absent exceeds the total number of thirty days in any one year, and the employer, as soon as that number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of that number shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna-and-a-half for each day so in excess.

(8) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or a labourer, endorse on the labour-contract of the labourer, after such inquiry as he may think necessary, the number of days so to be added to the term thereof :

Provided that an employer, who omits to apply for such endorsement as aforesaid at the time when the Inspector is actually visiting the estate, shall, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned.

Discharge of
labourer
permanently
incapacitated.

131. (1) Where in the opinion of the Inspector, a labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver the certificate to the employer of the labourer or to the representative of the employer, and, from the date of the certificate, the labour-contract of the labourer shall wholly determine.

(2) Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(3) Every sum so awarded and any such subsistence-allowance as is provided for by section 129 or section 130 may be recovered from the employer of the labourer concerned.

Accommodation for Labourers.

House accom-
modation,
water-supply
and sanitary
arrangements
for labourers.

132. Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house-accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, prescribe.

(Chap. VII.—Provisions as to the Labour-districts Secs. 133-136.)

133. (1) Where the food-grain commonly used by any class of labourers is not procurable by them at reasonable prices in the local markets near the estate on which they are employed, their employer shall be bound to supply them therewith at a reasonable price. Supply of food-grain for labourers.

(2) The Local Government may, by notification in the local official Gazette, declare, either generally or for each district or part of a district, what shall, for the purposes of this section, be deemed to be a reasonable price.

134. (1) Subject to such rules as the Local Government may make in this behalf, any Inspector may, by order in writing— Provisions for rationing.

- (a) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked, on such scale and for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in the order ;
- (b) direct that any specified labourer shall be exempt from the effect of any general order so made, if he is satisfied that the labourer is able to earn a full wage and desires to provide himself with proper and sufficient food ;
- (c) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew that direction for a like term.

(2) The cost of each labourer's ration furnished to him in accordance with any direction given under sub-section (1) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which the direction is in force.

135. Where, in the opinion of the Inspector, an employer does not provide such hospital-accommodation in a suitable place available to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of his labourers, as the Local Government may direct, the Local Government may require the employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, such sum, proportionate to the number of labourers so employed, as it thinks fit. Provision for hospital-accommodation and medical attendance.

136. (1) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of his jurisdiction, enquire whether the employer in charge of the estate has provided Enquiry whether employer has failed to pro-

(Chap. VII.—Provisions as to the Labour-districts. Secs. 137-138.)

vide accom-
modation,
etc., as re-
quired by the
rules.

for his labourers house-accommodation, water-supply, sanitary arrangements, food-grains and rations in accordance with any rules made by the Local Government under section 132 or 134 or any notification issued under section 133.

(2) At the instance of any Inspector or Assistant Inspector a similar enquiry may be made by a Magistrate.

(3) Every enquiry under this section shall be made at some place on, or within ten miles of, the estate to which it relates, and shall be conducted and dealt with as if it were an enquiry by a Magistrate under the¹ Code of Criminal Procedure, 1898.

Localities unfit for the Residence of Labourers.

Report by
Inspector and
inquiry by
Committee;

137. (1) Where, in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition, unfit for the residence of labourers or of any particular class of labourers, he shall give notice, in writing, of his opinion to the District Magistrate, who shall forthwith, by order in writing, summon a Committee to inquire into the matter.

(2) The District Magistrate may also of his own motion summon a Committee, where, either from his own observation or upon the report of an Inspector, Magistrate or medical officer, he is of opinion that an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers.

(3) Every Committee summoned under this section shall consist of—

- (a) the District Magistrate;
- (b) the Inspector;
- (c) the civil medical officer of the district; and
- (d) one or more employers of labourers:

(4) Provided that, if the District Magistrate is unable to procure the service on the Committee of any employer of labourers, he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on the Committee.

Inquiry by
Committee
by order of
Local
Government.

138. Where it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer,—

- (a) that an estate or portion of an estate is, for any of the reasons given in section 137, unfit for the residence of labourers or of any particular class of labourers, or

¹ See the revised edition as modified up to 1st April, 1903.

(Chap. II.—Provisions as to the Labour-districts. Secs. 139-141.)

(b) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate or on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 142,

the Local Government may direct the District Magistrate to summon a Committee under section 137; and the District Magistrate shall forthwith proceed to summon a Committee accordingly.

139. Every Committee summoned under section 137 or section 138 shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing it relates, and shall hear and record such information on the subject as the owner of the estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it. Proceedings of Committee.

140. (1) Where the Committee, or a majority thereof, is of opinion that the estate or portion, or any part of the estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, the Committee shall record a finding to that effect. Finding of Committee, and consequences.

(2) Where a finding has been recorded under sub-section (1), not labourer, or no labourer of the particular class to which the finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of the estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(3) Where a labourer is released under sub-section (2) from the performance of his labour-contract to labour on any estate, he shall be bound to labour on any other estate belonging to the same owner or in charge of the same employer and situate in the same labour-district; or, where the finding relates only to a portion of an estate, on any other portion of the same estate. Where the finding relates to the whole of any estate and the owner has no other estate or the employer has charge of no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of the labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

141. The Local Government may call for the proceedings of any Committee summoned under section 137 or section 138, and, if the finding of the Committee is not unanimous, the Local Government may record any finding thereon which the Committee was competent to record, and the finding so recorded by it shall have the same effect as the finding of a Committee under section 140. Power for Local Government to pass orders on proceedings of Committees.

Excessive
mortality on
estates.

142. Where it appears to the Local Government or to the District Magistrate that the number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years, as the case may be, than seven per cent., the Local Government or the District Magistrate may depute the civil medical officer of the district or any other qualified medical officer to inquire into and report on the following matters, namely :—

- (a) the cause or causes of the mortality ;
- (b) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of the estate or portion thereof, or of the employer in charge of the estate or portion, causing or contributing to the mortality ;
- (c) the fitness or otherwise of the estate or portion for the residence of labourers :

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government, or the District Magistrate, may direct an inquiry under this section limited to that particular class of labourers.

Medical
officer to
report.

143. The medical officer deputed under section 142 shall, as soon as may be, inquire into the matters referred to therein and shall hear and record such information relating to those matters as the owner of the estate or portion, or the employer in charge of the same, or the Inspector, may place before him, and shall visit and inspect the estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of the estate or portion, and the Local Government shall cause the employer to be furnished with a certified copy of such report.

Power for
Local Gov-
ernment to
declare estate
unfit for
residence.

144. Where the Local Government, after perusal and consideration of the said report, information and notes, is of opinion that the mortality was caused by the want, on the part of the owner of the estate or portion, or the employer in charge of the same, of due care or precaution or of the adoption of proper and available sanitary measures, or that the estate or portion is unfit for the residence of labourers or of any particular class of labourers, it may

(Chap. VII.—Provisions as to the Labour-districts. Secs. 145-147.)

make a declaration in writing to that effect, and the declaration so made shall have the same effect as the finding of a Committee under section 140.

145. (1) Where it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the foregoing provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or of that class of labourers, as the case may be, he shall, with the previous sanction of the District Magistrate of the district in which the estate or area is situate, give a certificate to that effect signed by him.

Power for Inspector to certify fitness of estate or portion found or declared to be unfit.

(2) On the grant of a certificate under sub-section (1), all such labourers as are mentioned or referred to in section 140, sub-section (3), whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates for the unexpired periods (if any) of their respective contracts.

Complaints made by Labourers.

146. . Where a labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach, on the part of his employer or such person as aforesaid, of any of the provisions of this Act or of any rule thereunder, the person to whom the statement is made shall forthwith send the labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate :

Labourer wishing to complain of personal ill-usage or breach of Act to be sent by employer to Inspector or Magistrate.

Provided that, where more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is made may, instead of sending them to such Inspector or Magistrate as aforesaid, give the Inspector or Magistrate notice, in writing, of their complaint.

147. (1) Where a complaint is made to an Inspector or Magistrate under section 146, or where an Inspector or a Magistrate receives, under that section, notice in writing of a complaint, or where an Inspector or a Magistrate has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or committed any such breach as is mentioned in section 146 in respect of a labourer, the Inspector or Magistrate shall, as soon as may be, proceed to some place, not more than ten miles from the principal place of business of the employer, situate within the local limits of his jurisdiction, and inquire into the matter complained of :

Inspector or Magistrate how to proceed in case of complaint.

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that the ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction the ill-usage or breach has been committed.

(2) For the purposes of every enquiry made under sub-section (1), the Inspector or Magistrate may summon and examine any person as a witness.

Untrue or
frivolous
complaints.

148. (1) Where, upon an enquiry made under section 147 on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious, he shall dismiss the complaint; and in that event shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

(2) Every endorsement made under sub-section (1) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

Award of
compensation
to employer.

149. (1) Where a complaint is dismissed under section 148, the Inspector or Magistrate may award to the employer any reasonable compensation on account of the expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation so awarded on the complainant's copy of the labour-contract.

(2) The complainant shall be bound to pay the amount awarded under sub-section (1); and, in default of payment, his labour-contract shall not be deemed to have determined until he has worked off the amount at the rate of one day's labour for each four annas of the same.

Complaints
disclosing
grounds for
further
proceedings.

150. (1) Where, upon an inquiry made under section 147 by a Magistrate or by an Inspector who is a Magistrate, the Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law.

(2) Where the Inspector is not a Magistrate and is of such opinion as aforesaid, he shall without delay send the complainant and his witnesses (if

any) to the nearest Magistrate, who shall thereupon dispose of the case according to law.

151. (1) Where, upon the complaint of a labourer, it is proved to the satisfaction of a Magistrate that the wages of the labourer are in arrear for two months after the first day of the month succeeding the month in which they were earned, or where it is proved to the satisfaction of a Magistrate that the wages of a person whose labour-contract has determined have been withheld for any period after determination, the Magistrate may award to such labourer or person as aforesaid the amount which appears to be then due to him, and also, by way of compensation, such further sum, not exceeding that amount, as to the Magistrate seems just.

Recovery of arrears of wages and compensation.

(2) On the failure of an employer to pay any amount awarded under sub-section (1), the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned.

152. (1) Where it is proved to the satisfaction of a Magistrate—

(a) that an employer, or any person placed by an employer in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of the labourer, and, under the¹ Code of Criminal Procedure, 1898, triable exclusively by the Court of Session; or

Power to cancel contract on conviction of employer or accumulation of arrears of wages.

(b) that an employer or any person placed by an employer in authority over a labourer has been twice convicted of any such offence as aforesaid against the labourer and under the said Code triable by a Magistrate; or

(c) that the wages of a labourer are in arrear to an amount exceeding the whole of his wages for four months; or

(d) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill-usage by his employer or any such person as aforesaid;

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour-contract of the labourer and award to him compensation not exceeding thirty rupees.

(2) Every cancellation under sub-section (1) shall be certified by the Magistrate on the back of the labourer's copy or the labour-contract, or, if that copy is not forthcoming, by writing under the Magistrate's hand delivered to the labourer.

¹ See the revised edition, as modified up to 1st April, 1903.

Power to
Local Gov-
ernment to
cancel con-
tracts of
labourers
whose condi-
tion is un-
satisfactory
owing to in-
sufficiency
of earnings.

153. (1) Where it appears to the Local Government that the condition of the labourers on an estate, or of any class or any considerable number of them, is unsatisfactory owing to the insufficiency of their earnings to maintain them in health and comfort, the Local Government, after such inquiry as it thinks necessary, may direct that the labour-contracts of all such labourers be cancelled.

(2) No labour-contract shall be cancelled under this section until the employer has been given an opportunity for showing cause why it should not be cancelled.

Power to
cancel con-
tract of
labourer
related to
labourer
whose con-
tract is can-
celled or
determined.

154. Where the labour-contract of a labourer is or has been cancelled or has determined under section 119, section 120, section 131 or section 152, the Inspector or Magistrate, as the case may be, may in his discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer employed on any estate belonging to the same employer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been so cancelled or has so determined.

Determination of Labour-contracts.

Endorsement
of deter-
mination on
labour-
contract.

155. (1) Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of determination, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect; and, where the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement or give such certificate as aforesaid.

(2) The employer shall give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof.

Power to
redeem
labour-con-
tract.

156. (1) Where a labourer is able and desirous to redeem the unexpired term of his labour-contract, or the labour-contract of any member of his family, by payment of a sum equivalent to the value of the unexpired term, the labourer may require his employer to take him, or allow him to go, before the Inspector within the local limits of whose jurisdiction he is employed; and, on his depositing such sum as aforesaid with the Inspector, the Inspector shall give notice to the employer to show cause within one week why the labourer should not be released from his contract.

(2) If no sufficient cause is shown as aforesaid, the Inspector shall require the labourer's copy of the contract to be produced, and on production thereof

(Chap. VII.—Provisions as to the Labour-districts. Secs. 157-158.)

shall endorse thereon a certificate that he has been released under this section from his contract, or, if that copy is not forthcoming, shall deliver to the labourer a certificate under his hand to the like effect; and shall, in either case, hold the sum so deposited to the credit of the employer of the labourer.

(3) The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every such month of the third and fourth years of the original term of the contract :

Provided that, if a person who has completed four years' service under a labour-contract enters into a new labour-contract for one year, he shall not be entitled to redeem the unexpired portion of such new labour-contract unless on the payment of two rupees for each month of the said unexpired portion.

157. (1) Where the labour-contract of a labourer determines at a time different from that of any other labourer who is the wife or husband of that labourer, the Inspector or Magistrate may, on the joint application of both labourers, equalize the terms of their respective contracts, and may for this purpose add to the term of the contract which expires first, and deduct from the term of the contract which expires last, in such proportions as may appear to him to be equitable.

Power to equalize terms of contract in case of husband and wife.

(2) Every addition or deduction from the term of any labour-contract made under sub-section (1) shall be certified by the Inspector or Magistrate, on the back of both the employer's and the labourer's copies of the contract, or, if those copies are not forthcoming, by writing under the Inspector's or Magistrate's hand, copies of which shall be delivered to the employer and the labourer.

Repatriation of Labourers and Others.

158. (1) Where any labourer, not being a native of the labour-districts, whose labour-contract has determined under section 131, desires to be sent back to his native district, the Inspector may, instead of awarding a sum as receivable by the labourer from his employer, as provided by that section, order the employer to deposit such amount, whether in excess of the three months' wages awardable under that section or otherwise, as shall, in the Inspector's opinion, be sufficient to cover the entire expenses of sending the labourer back to his native district. The amount shall be deposited by the

Repatriation of labourer whose labour-contract has determined under section 131.

employer in the Inspector's office and shall be expended by the Inspector in sending the labourer back to his native district.

(2) On the failure for the space of twenty-four hours of an employer to comply with an order made under sub-section (1), the Inspector may expend the amount specified in the order, and may recover the same from the employer of the labourer concerned.

Repatriation
of persons
emigrating
not under
labour-con-
tract who are
physically
incapacitated.

159. Where any person, being a native of India, but not being a labourer, who has emigrated from his native district to a labour-district for the purpose of labouring for hire in any estate situate therein, or, being a dependant of any person who has so emigrated, has no means of subsistence, and is, in the opinion of the Inspector or Magistrate, permanently incapacitated from earning his livelihood in a labour-district, the Inspector or Magistrate may, on the application of such person, send him back, together with his dependants (if any), to his native district, and may, subject to the control of the Local Government, charge the expenses incurred in so doing to the Labour Transport Fund constituted under section 218.

Repatriation
of labourers
wrongfully
recruited.

160. (1) Subject to any orders which the Local Government may make in this behalf, the Inspector or Magistrate may, if he thinks fit, detain and may send back to his native district any labourer, together with his dependants (if any), whose contract has been cancelled under section 119 or section 120 on the ground of coercion, undue influence, fraud or misrepresentation, or of any irregularity in connection with his recruitment or the execution of his contract.

(2) Any expenditure incurred under sub-section (1) may be recovered from the employer on whose estate the labourer concerned was under contract to labour.

Repatriation
of persons
not under
labour-con-
tract
wrongfully
recruited.

161. (1) Where it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf the person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or if the employer cannot be communicated with without undue delay, upon his agent or any one who is accompanying or conveying the person or has forwarded or otherwise assisted him to emigrate to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why the person should not be sent back to his native district.

(Chap. VII.—Provisions as to the Labour-districts. Sec. 162. Chap. VIII.—
Rules. Sec. 163.)

(2) Where the Inspector or Magistrate is of opinion, after such inquiry as he thinks sufficient, that such person as aforesaid was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to that effect and shall, if necessary, detain the person and shall send him, if he so desires, together with any other persons dependant on him, back to his native district.

(3) Subject to any orders which the Local Government may make in this behalf, any expenditure incurred under this section may be recovered from the employer on whose behalf the person concerned was induced to emigrate or to whose estate he was being or had been conveyed, or, if the employer is not known, or if there is no employer, the person who is accompanying or conveying the person concerned or has forwarded or otherwise assisted him to emigrate to any labour-district or estate.

162. (1) Where a labourer or other person is sent back to his native district under section 158, 160 or 161, the Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer or person is actually conveyed to his native district.

Arrange-
ments may
be made for
escorting
persons
ordered to be
repatriated.

(2) Any expenditure incurred under sub-section (1) may be recovered as part of the amount expended in sending the labourer or other person back to his native district.

CHAPTER VIII.

RULES.

163. (1) In addition to the powers hereinbefore conferred, the Local Government may make rules¹ to carry out any of the purposes and objects of this Act in the Province.

General
power for the
Local Gov-
ernment to
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) define and regulate the powers and duties of the several officers appointed by it under this Act;

(b) prescribe what returns and reports shall be made under this Act by any such officers as aforesaid or by any contractors or local agents

¹For rules by the Government of the United Provinces, see the *United Provinces Gazette*, 1906, Pt. I, p. 78; *ibid.*, 1904, Pt. I, p. 619.

within the Province and the form in which they shall be respectively so made ;

- (c) prescribe the forms of all registers, licenses, certificates, permits and notices required under this Act with respect to the Province ;
- (d) prescribe the fees to be paid for any license granted under this Act by any officer appointed by it and for the registration of labourers or their dependants in any district in the Province ;
- (e) prescribe the particulars to be registered by a registering-officer in respect of each person who is brought before him in any district in the Province for registration as a labourer or dependant ;
- (f) provide for the management and regulation of contractors' depôts and of hospital depôts situate within the Province, and for the support and medical treatment of labourers and their dependants passing through such depôts ;
- (g) provide for the accommodation, food, clothing and medical treatment of all labourers and their dependants detained on account of sickness by order of a Magistrate at any place within any district in the Province ;
- (h) prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district ; provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer ; and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels ;
- (i) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the Province, and the daily allowance to be issued to each labourer and dependant during the journey through the same ; prescribe the number of officers, cooks and other servants to be carried on board such vessels ; and provide generally for the accommodation of labourers and their dependants on such vessels ;
- (j) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels, while in transit through the Province ;

- (k) declare the routes through the Province by which labourers, emigrants under Chapter V and dependants shall travel to the labour-districts ;
- (l) prescribe the clothing to be supplied to labourers, emigrants under Chapter V and dependants while proceeding to the labour-districts through the Province ;
- (m) require depôts and rest-houses to be provided by and at the cost of employers, contractors or agents for the accommodation of labourers, emigrants under Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such depôts and rest-houses ;
- (n) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and at the cost of employers, contractors or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, contractors or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness ;
- (o) regulate the food to be supplied by and at the cost of employers, contractors or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food ;
- (p) regulate the water-supply to be maintained by and at the cost of employers, contractors or agents for the use of labourers, emigrants under Chapter V and dependants ;
- (q) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, contractors or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district ;
- (r) regulate the arrangements to be made by and at the cost of employers, contractors or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district ;

- (s) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province; and
- (t) provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers.

(3) Where an employer, contractor, agent or other person fails to perform any act which he is by any rule made under sub-section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, contractor or agent, as the case may be.

(4) In making any rule under this Act the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees.

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and on such publication shall have effect as if enacted by this Act.

CHAPTER IX.

PENALTIES AND PROCEDURE.

Recruitment,
etc., in con-
travention of
Act or noti-
fication.

164. Whoever knowingly recruits, engages, induces, or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Wilful mis-
description
by recruiter.

165. Whoever, being a recruiter, wilfully gives false information to a Registering-officer regarding the name, caste, native district or village of any person produced before such officer for registration as a labourer or regarding any other particulars required to be entered in the register prescribed by section 34, sub-section (2), shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

Recruiter re-
moving, etc.,
unregistered
person.

166. Whoever, being a recruiter,—

- (a) removes or attempts to remove any person to a depôt before he has been registered under section 34, or induces or attempts to induce him

(Chap. IX.—Penalties and Procedure. Secs. 167-169.)

to go to a dépôt or to leave the local limits of the jurisdiction of the Registering-officer before whom he ought to be brought under section 33, or aids or attempts to aid him in going to a dépôt or in leaving any such local limits as aforesaid before he has been so registered ; or

- (b) induces or attempts to induce any person who has been so registered to proceed to any place other than the dépôt which has been established by the contractor on whose behalf the recruiter is licensed, or conveys or attempts to convey him to such place ;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees in respect of every such person.

167. (1) Whoever, being a recruiter or a person deputed by a recruiter to accompany labourers to a dépôt, fails to provide any labourer or any dependant whom he accompanies on the journey to the dépôt with proper and sufficient food and lodging, or otherwise ill-treats the labourer or dependant on the journey, shall be punishable with fine which may extend to fifty rupees ; and, in default of payment of the fine within twenty-four hours, with imprisonment for a term which may extend to one month.

Recruiter not
supplying
proper food
etc.

(2) The convicting Magistrate may award the whole or any portion of any fine levied under sub-section (1) as compensation to the labourer in respect of whom, or of whose dependant, the failure or ill-treatment has occurred.

168. (1) Any labourer engaged by a recruiter who, having been registered under section 34, without reasonable cause refuses or neglects when at the dépôt to execute, in accordance with the provisions of section 44, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to the amount of the expense incurred in registering him and conveying to the dépôt and maintaining him therein ; and, in default of payment of the fine, with imprisonment for a term which may extend to one month.

Labourer re-
fusing
without rea-
sonable cause
to execute
contract at
dépôt.

(2) Any labourer so punished may be forthwith discharged from the dépôt.

(3) Every fine levied under sub-section (1) shall be paid to the contractor, sub-contractor or recruiter by whom such expense as aforesaid was incurred.

169. (1) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute, in accordance with the provisions of

Labourer re-
fusing to
execute con-

tract with
garden-
sardar.

section 72, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

(2) Every fine levied under sub-section (1) shall be paid to the garden-sardar by whom such expense as aforesaid was incurred.

Garden-sar-
dar failing to
report him-
self, etc.

170. Whoever, being a garden-sardar holding a certificate under Chapter IV,—

(a) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate; or

(b) fails, without sufficient cause, to return to his employer within the time specified in his certificate; or

(c) fails to account for the money advanced to him by his employer for the purpose of engaging labourers;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both;

and may, if a labourer under a labour-contract, on the application of his employer or of a person acting on behalf of the employer, be sent back or made over to his employer for the purpose of completing his term of service.

Garden-
sardar, etc.,
abandoning
labourers,
etc.

171. Whoever, being a garden-sardar holding a certificate under Chapter IV or a person appointed under section 55 or section 76 to accompany labourers to a labour-district,—

(a) wilfully abandons any labourer or his dependant on the way to the labour-district; or

(b) removes or attempts to remove any person to a labour-district before he has executed a labour-contract in accordance with section 72; or

(c) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of the garden-sardar before he has executed a labour-contract as aforesaid or aids or attempts to aid him in proceeding to a labour-district or in leaving any such local area as aforesaid before he has executed such a labour-contract;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

172. (1) • Whoever, being a garden-sardar holding a certificate under Chapter IV,—
 Garden-sardar making over labourers to contractors, etc.

- (a) makes over to any contractor, sub-contractor or recruiter, or to the garden-sardar or local agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer ; or
- (b) places any such person as aforesaid in a contractor's depôt or in the place of accommodation provided by a recruiter in accordance with the provisions of section 29, sub-section (2) ; or
- (c) allows any person engaged as a labourer by any contractor or sub-contractor or recruiter to share the accommodation provided by him under section 62 ;

shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and his certificate may be impounded by the convicting Magistrate.

(2) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned.

173. Any garden-sardar holding a certificate under Chapter IV or person appointed by him as provided by section 76, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section 79, sub-section (1), or to carry out any of the instructions entered in the way-bill, shall be punishable with fine which may extend to twenty rupees.
 Garden-sardar failing to comply with instructions endorsed on way-bill.

174. Whoever,—

- (a) being a garden-sardar employed under a permit to engage persons and assist them to emigrate in accordance with the provisions of section 90, infringes any of the provisions of that section ; or,
- (b) being a garden-sardar employed under the control of an agency or association to engage persons and assist them to emigrate in accordance with the provisions of section 91, infringes any of the conditions prescribed by or under that section ;

Unlawful engagement of emigrants by garden-sardar.

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

175. Whoever, being a local agent licensed under section 64 or a selecting agent licensed under section 65, retains or acquires any interest in the business of a contractor or works for a contractor for hire or reward, shall be punishable with fine which may extend to one thousand rupees.
 Local agent or selecting agent working with contractor

Master receiving native passengers on board in contravention of Act.

176. (1) Whoever,—

(a) being a master not licensed under section 97, in contravention of section 96, sub-section (1), knowingly receives on board his vessel more than twenty passengers being natives of India ; or,

(b) being a master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section 100 for the purpose of transporting them to a labour-district ;

shall be punishable with fine which may extend to two hundred rupees for each passenger so received.

(2) Nothing in this section applies to the master of a vessel exempted under section 96, sub-section (2).

Fraudulent alteration of vessel after grant of license.

177. Whoever, being a master licensed under section 98, with intent to defraud, does or suffers to be done any act or thing whereby the state of his vessel is altered, so that the vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent, shall be punishable with fine which may extend to two hundred rupees.

Master not complying with section 102.

178. Whoever, being a master licensed under section 98, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 102, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

Master not complying with order under section 104.

179. Whoever, being a master licensed under section 98, fails to comply with an order of an Embarkation Agent made under section 104, shall be punishable with fine which may extend to two hundred rupees for each day during which he fails to comply with the order after the day on which the order was received by him.

Master permitting labourer to leave vessel contrary to section 106.

180. Whoever, being a master licensed under section 98, causes or permits a labourer finally to leave his vessel in contravention of the provisions of section 106, shall be punishable with fine which may extend to two hundred rupees for each labourer so leaving his vessel.

Master wilfully omitting to stop vessel at certain places.

181. Whoever, being a master licensed under section 98, wilfully omits to comply with the provisions of section 107, shall be punishable with fine which may extend to two hundred rupees.

182. Whoever disobeys any order made under section 109 by a Magistrate, shall be punishable with fine which may extend to two hundred rupees.

Person disobeying Magistrate's order as to communication between vessel and land.

183. Whoever, being a master licensed under section 98, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of the vessel any provision of this Act or any rule thereunder, shall be punishable with fine which may extend to two hundred rupees.

Master or medical officer disobeying or neglecting to enforce rules.

184. Whoever, having executed a labour-contract,—

(a) deserts while on his journey from the district in which he has executed the labour-contract to a labour-district; or,

Labourer deserting, etc., after registration.

(b) without reasonable cause, refuses or neglects to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent;

shall be punishable with imprisonment for a term which may extend to one month.

185. Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register or makes an incorrect return, or wilfully omits to prepare, file or affix a schedule as required by section 124, shall be punishable with fine which may extend to two hundred rupees.

Employer refusing or omitting to keep registers, &c.

186. Whoever, being an employer, or acting under the orders or on the behalf of an employer, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition made under section 123, shall for every such offence be punishable with fine which may extend to two hundred rupees.

Employer or other person obstructing inspection under section 123.

187. Whoever, being an employer, or acting under the orders or on the behalf of an employer, compels any labourer to perform any labour knowing that he is at the time unfit to perform such labour, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person compelling labourer to perform labour for which he is unfit.

188. Whoever buys any rations which have been furnished under section 184 to a labourer, and whoever, being a labourer, sells any rations so furnished to him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees.

Persons buying labourer's rations,

Employer
omitting to
provide
house-accom-
modation,
etc.

189. (1) Whoever, being an employer, wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punishable with fine which may extend to five hundred rupees; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

(2) If the employer wilfully omits to comply with the order within the time so fixed, he shall be punishable with fine which may extend to one hundred rupees for each day during which the omission continues.

(3) If the employer fails to pay the fine imposed under sub-section (2), the person on whose account he has been acting shall be liable to pay the same.

Employer
neglecting
to provide
hospital-ac-
commoda-
tion.

190. Whoever, being an employer, fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of, labourers, as is required by any rule made under this Act, shall be punishable with fine which may extend to two hundred rupees for each week during which the default continues.

Employer
causing
labourer to
reside on es-
tate declared
unfit for
residence.

191. Where any estate or portion thereof has been found under section 140, or declared under section 144, unfit for the residence of labourers, or any class of labourers, as the case may be, every employer who, until a certificate has been given under section 145, causes or permits such labourers or class of labourers to reside or labour upon the estate or portion shall be punishable with fine which may extend to two hundred rupees.

Unlawful
absence from
work.

192. (1) Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of absence. When any employer so sends any statement, he shall at the same time notify to each labourer concerned the fact that he has done so.

(2) Every Inspector who receives any statement so sent shall, if the employer so desires, when next visiting the estate on which the labourers to whom the statement relates are employed, inquire into each case of absence in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each day

of absence, endorse the days of absence on the labour-contract of the labourer, and add them to the term of the contract.

(3) The Inspector may also, at any time other than that of his visit to the estate, on the application of either the employer or the labourer, after due inquiry, endorse the days of absence on, and add them to the term of, the labour-contract :

Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the Inspector is actually visiting the estate, shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned.

Explanation.—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

193. Whoever, being a labourer, voluntarily and without reasonable cause absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be punishable with imprisonment for a term which may extend to fourteen days ; and, in case the absence has extended to twenty days in any two consecutive months, shall be punishable with imprisonment for a term which may extend to one month.

Labourer
absent with-
out cause.

Explanation.—Ill-treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour-contract binding on the employer, shall be deemed to be reasonable cause within the meaning of this section.

194. Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing in such form as the Local Government may prescribe containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month or previously, have been arrested or have returned to his service during the preceding month.

Statement of
deserters.

195. (1) Where any labourer deserts from his employer's service, the employer, or any person authorized by him in this behalf, may, without a warrant and without the assistance of any police-officer, arrest the labourer wherever he may be found :

Deserter
may be ap-
prehended
without
warrant.

Provided that, if the labourer is found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.

(2) Every police-officer shall assist in arresting any such labourer, if so required by the employer or person authorized by him in this behalf.

(3) Whoever arrests a labourer under this section shall without delay take him to the police-station nearest to the place of the arrest; and if he fails to do so shall be punishable with fine which may extend to two hundred rupees.

Procedure at
police-station.

196. (1) The police-officer in charge of such station shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer.

(2) If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(3) If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send the labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(4) If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in sub-section (2) or sub-section (3), the Magistrate shall forward the statements and report received by him from the police to the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also, when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such other Magistrate as aforesaid.

(5) On receipt of such statements and report the Magistrate within the local limits of whose jurisdiction the estate is situate may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry

(Chap. IX.—Penalties and Procedure. Secs. 197-201.)

the Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to or appeared before him, require the labourer to appear before him.

197. Where an employer or a person acting on behalf of an employer complains to a Magistrate that a labourer has deserted from the employer's service, the Magistrate may, without previously examining the complainant, issue a summons for the attendance of the labourer, or a warrant for his arrest, and fix a day for hearing the complaint. Procedure on complaint of desertion.

198. (1) Whoever, being a labourer, deserts from his employer's service, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to twenty rupees, or with both. Punishment for desertion.

(2) For a second conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(3) For a third and every subsequent conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

199. (1) Where it appears to a Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient cause, the Magistrate may impose a fine, which may extend to fifty rupees, on the employer or person acting on his behalf by whom or at whose instance the labourer was arrested. Compensation for wrongful arrest.

(2) The Magistrate may in his sentence direct that the whole or any part of the fine levied under sub-section (1) be paid by way of compensation to the labourer so arrested.

200. Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service the Inspector shall cancel the labour-contract of the labourer, and shall endorse on his copy of the contract a certificate of the cancellation; or, if that copy is not forthcoming, he shall give to the labourer a written certificate to the like effect. Cancellation of contract by desertion.

201. Whoever, being a labourer, is guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which the labourer is employed, shall be punishable with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees. Penalty for drunkenness or neglect of sanitary regulations.

Portion of sentence may be cancelled on application of employer.

202. (1) The employer of a labourer sentenced to imprisonment for any offence under this Act, or any person authorized to act in this behalf for the employer, may apply to the Magistrate that the labourer be made over to him for the purpose of completing his labour-contract.

(2) On an application being made under sub-section (1), the Magistrate may, if he thinks fit, order that the labourer be made over or forwarded to his employer; and in that case the Magistrate shall cancel the sentence passed on the labourer or any unexpired portion of the same, and shall endorse on his copy of the labour-contract a certificate of the cancellation, or, if that copy is not forthcoming, shall give him a written certificate of the cancellation.

(3) Nothing in this section shall be deemed to affect the provisions of section 200.

Expense of forwarding labourer to be paid by employer.

203. Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in the making over or forwarding of the labourer; and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray that expense.

Conviction not to operate as a release.

204. (1) On the expiry of any sentence of imprisonment passed on a labourer for any offence under this Act, the Magistrate shall, subject to the provisions of section 200, make the labourer over to any person appointed on the part of his employer to take charge of him; and no conviction under this Act or imprisonment thereon shall, save as aforesaid, operate as a release to any labourer from the terms of his labour-contract.

(2) Where no person is present on the part of the employer to take charge of the labourer on the expiry of his sentence, the Magistrate shall forward the labourer to the principal place of business of his employer situate within the local limits of the Magistrate's jurisdiction.

(3) Any expenditure incurred under sub-section (2) may be recovered from the employer of the labourer concerned.

Endorsement on contract of imprisonment for offence against Act.

205. (1) Where a labourer is sentenced to imprisonment for any offence under this Act other than an offence under section 193 or section 198, the Magistrate shall endorse on the employer's copy of the labour-contract the term for which the labourer is so sentenced.

(2) When a labourer is convicted of unlawful absence under section 193 or desertion under section 198, the Magistrate shall endorse the period of the labourer's absence or desertion on the employer's copy of the labour-contract.

(Chap. IX.—Penalties and Procedure. Secs. 206-208.)

(3) In a case of desertion falling under sub-section (2) no endorsement shall be made if the labour-contract has been cancelled under section 200, or if more than one year has elapsed from the expiry of the original term of the labour-contract, or more than three years have elapsed from the date when the labourer deserted, to the date of his conviction.

(4) The term of imprisonment to which a labourer is sentenced under section 193 or section 198 shall be deducted from the term of service to which he is bound by his original contract or by any endorsement made under sub-section (2).

(5) No endorsement shall be made in a case of desertion under sub-section (2) unless the employer has duly reported the particulars of the desertion as provided in section 194.

206. Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or a person acting on behalf of the employer so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment; or, if that period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of that period as is equal to the unexpired term.

Endorsement on contract of period of any other imprisonment.

207. The periods endorsed under section 205 or section 206 shall be added to the term for which the labourer contracted to serve; and the labourer shall not be deemed to have performed his labour-contract until he has served for the term specified therein in addition to the periods so endorsed.

Periods endorsed to be added to term of contract.

208. (1) Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice the labourer to leave his employer, or harbours or employs any labourer who has, in contravention of the terms of his labour-contract, left his employer, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Other person enticing away, harbouring or employing labourer under labour-contract.

(2) The convicting Magistrate may, in his discretion, award to the employer with whom the labourer has contracted the whole or any part of any fine levied under sub-section (1).

(Chap. IX.—Penalties and Procedure. Secs. 209-214. Chap. X.—Miscellaneous. Sec. 215.)

Failure to forward contract under section 118 or to cause labourer to appear under section 120. **209.** Whoever, being bound, under section 118, sub-section (2), to forward any labour-contract to the Inspector, or under section 120 to cause any labourer to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward the labour-contract to the Inspector at or within the time specified, or to cause the labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to send labourer before Magistrate as provided by section 146. **210.** Whoever, being bound by section 146 to send any labourer before, or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send the labourer or to give the notice, shall be punishable with fine which may extend to two hundred rupees.

Employer refusing to endorse labour-contract, &c. **211.** Whoever, being an employer,—
 (a) refuses or wilfully neglects to endorse the labourer's copy of his labour-contract as required by section 155, or
 (b) detains a labourer after the determination of his labour-contract; or
 (c) fails to give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof;

shall be punishable with fine which may extend to two hundred rupees.

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term. **212.** Whoever, being an employer or a person acting for an employer, refuses or neglects to comply with the request of a labourer made under section 156, shall be punishable with fine which may extend to two hundred rupees.

Abetment. **213.** Whoever abets, within the meaning of¹ the Indian Penal Code any offence against this Act or any rule hereunder, shall be punishable with the punishment provided for the offence. XLV of 1860.

Place of trial for offences. **214.** Whoever commits any offence against this Act or any rule hereunder shall be triable for the offence in any place in which he may be found, as well as in any other place in which he might be tried under any law for the time being in force.

CHAPTER X.

MISCELLANEOUS.

Recovery of sums due under Act. **215.** Every sum recoverable under this Act from any person may be recovered on application to a Magistrate having jurisdiction where the person

¹ See s. 107 of the Code as modified up to the 1st April, 1908.

is for the time being resident, by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to that person.

216. All arrears of wages due under any labour-contract shall be a charge upon the estate upon which the labourer to whom the labour-contract relates has been engaged to labour ; or, if he has engaged to labour upon any one of several estates managed by the same employer, shall be a charge upon that estate upon which he for the time being actually labours.

Wages due under labour-contract a charge upon estate.

217. (1) Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of the labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound thereby, and shall have the same rights and remedies under it as such person would have had thereunder, if the estate had not been transferred or had not devolved.

Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it.

(2) No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of the labourer which occurs after he has ceased to be owner.

218. (1) Subject to the power of a Magistrate under this Act or the Code of Criminal Procedure, 1898¹, to award fines in whole or in part as compensation to or for the benefit of any complainant or other person, the Local Government shall credit all fines, fees and rates levied and paid under this Act in the territories under its administration to a fund to be called the "Labour Transport Fund."

Fines, fees and rates to be credited to Labour Transport Fund.

(2) The Labour Transport Fund shall be at the disposal of the Local Government, in such manner as the Government of India may direct, for paying the salaries and allowances of all officers and establishments appointed by it under this Act and their pensionary and leave-allowances, for meeting the cost of sending labourers and other persons back to their native districts and generally for defraying the expenses of carrying out the purposes and objects of this Act and any rules made by the Local Government hereunder.

(3) The annual surplus accruing in the Labour Transport Fund shall be applied to reducing the annual rate or the registration-fees leviable under this Act, and not otherwise.

¹ See the revised edition as modified up to 1st April, 1903.

(Chap. X.—Miscellaneous. Secs. 219-223. The First Schedule.—Form of Labour-contract between Labourer and Employer.)

Duty of Assistant Inspector.

219. Every Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorized in writing by the Inspector to perform or exercise.

Powers of officers under this Act to be exercisable from time to time.

220. All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires.

Power to exempt labour-district from Act.

221. The Chief Commissioner of Assam¹ may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that any labour-district or local area therein shall, on and with effect from a day to be fixed in the notification, cease to be subject to all the provisions or any specified provision of this Act; and from the day so fixed such labour-district or local area as aforesaid shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Notifications not to affect prior acts, etc.

222. The publication of any notification under this Act shall not affect any act done, offence committed or proceedings commenced before such publication.

Repeal.

223. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE.

FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER.

(See section 5.)

This contract, made under the Assam Labour and Emigration Act, 1901, between *A B* (hereinafter called the labourer) of the one part and *[*C D* (representative, local agent or garden-sardar) on behalf of] *E F* (hereinafter called the employer) on the other part, witnesseth that the said *[representative or local agent or garden-sardar on behalf of the said] employer doth hereby promise the said labourer that if he, the said labourer, do remain and labour† on the $\frac{X \text{ estate}}{Y \text{ estates}}$ ‡ of his said employer in the labour-district of _____ for the term of _____ years from the date of the execution of this contract, he, the said employer, will, from the date on which

* Parts in brackets to be omitted if the contract is made without the intervention of a representative, local agent or garden-sardar.

† State nature of labour, if the labourer is to be required to work under the ground.

‡ As the case may be.

¹ The Chief Commissioner is now Lieutenant-Governor of the Province of Eastern Bengal and Assam, see Proclamation No. 2832, dated the 1st September 1905, *Gazette of India*, 1905, Pt. I. p. 636.

(The First Schedule.—Form of Labour-contract between Labourer and Employer.)

the said labourer commences to labour on the said ^{estate}_{estates}, pay or cause to be paid to the said labourer monthly wages at the rate of Rs.* for a completed daily task regulated in accordance with the provisions of the said Act,† and, when such task as aforesaid is not completed, monthly wages calculated at the same rate in proportion to the amount of work actually done, and that during the said period he, the said employer, will supply to the said labourer rice at a price of Rs. per maund and will faithfully comply with all rules regarding house-accommodation, medical treatment and the supply of food-grains or rations to the said labourer which the Local Government may prescribe; and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise, agree so to remain and labour for the said employer. In witness whereof the said parties to these presents have hereunto set their hands at this day of 19 .

Signature of Labourer and of Employer (or of his Representative, Local Agent or Garden-sardar).

Form of Description of Labourer.

| NAME. | Father's name. | Age. | Sex. | Caste. | RESIDING— | | | Descriptive marks. |
|-------|----------------|------|------|--------|-----------|--------|----------|--------------------|
| | | | | | District. | Thana. | Village. | |
| | | | | | | | | |

* State rates for various periods of contract.

† [During the first six months of the contract the employer is to pay a full wage for half the daily task, unless an Inspector certifies that the labourer is able to perform a full task.]

[APPLIES TO THE UNITED PROVINCES.]

[26th March, 1902.]

An Act to recognise and give effect to a change in the constitution and designation of the territories formerly known as the North-Western Provinces and Oudh.

WHEREAS the territories formerly administered by the Chief Commissioner of Oudh have been united under one Local Government with those administered by the Lieutenant-Governor of the North-Western Provinces;

And whereas it has been resolved that the territories so united in one Lieutenant-Governorship shall be known as "the ² United Provinces of Agra and Oudh";

And whereas it is expedient to recognise and give effect to the change so made in the constitution and designation of the said territories;

It is hereby enacted as follows:

1. This Act may be called the United Provinces (Designation) Act, 1902.

2. In every enactment heretofore passed and now in force, and in every appointment, order, scheme, rule, by-law, notification or form made or issued thereunder, all references to the North-Western Provinces and Oudh shall be construed as referring to the United Provinces of Agra and Oudh, all references to the North-Western Provinces and to the Province of Oudh, respectively, shall be construed as referring to the corresponding territories as comprised in the United Provinces of Agra and Oudh, all references to the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, respectively, shall be construed as referring to the Lieutenant-Governor of the United Provinces of Agra and Oudh, and all references to the Lieutenant-Governor of the North-Western Provinces and Oudh in Council shall be construed as referring to the Lieutenant-Governor of the United Provinces of Agra and Oudh in Council.

Short title.
References in existing enactments to North-Western Provinces and Oudh.

¹ For Statement of Objects and Reasons, see *Gazette of India*, 1902, Pt. V, p. 63; for Proceedings in Council, see *ibid.*, Pt. VI, pp. 51 and 54.

² See Proclamation No. 996-P, dated the 22nd March, 1902, *Gazette of India*, 1902, Pt. I, p. 228.

THE INDIAN UNIVERSITIES ACT, 1904.

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THE FIRST SCHEDULE.—*EX OFFICIO* FELLOWS OF THE UNIVERSITY.

THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

ACT No. VIII OF 1904.¹

[APPLIES TO THE UNITED PROVINCES.]

[24th March, 1904.]

An Act to amend the law relating to the Universities of British India.

WHEREAS by Acts II, XXII and XXVII of 1857, Act XIX of 1882 and Act XVIII of 1887, Universities were established and incorporated at Calcutta, Bombay, Madras, Lahore and Allahabad² ;

And whereas by ³Act XLVII of 1860 the Universities of Calcutta, Madras and Bombay were empowered to confer such degrees as should be appointed in the manner provided by the Act ;

And whereas by ³Act I of 1884 the Universities of Calcutta, Madras and Bombay were further empowered to confer the honorary degree of Doctor in the Faculty of Law ;

And whereas it is expedient to amend the law relating to the Universities of British India ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Universities Act, 1904; and

(2) It shall come into force on such date⁴ as the Government may fix in this behalf by notification in the Gazette of India or the local official Gazette, as the case may be.

2. (1) This Act shall be deemed to be part of each of the Acts by which the said five Universities were respectively established and incorporated.

(2) In this Act, unless there is anything repugnant in the subject or context,—

(a) the term “College” or “affiliated College” includes any collegiate institution affiliated to or maintained by the University :

¹ For Statement of Objects and Reasons, see Gazette of India, 1903, Pt. V, p. 528 ; for Report of the Select Committee, see *ibid.*, 1904, Pt. V, p. 29; and for Proceedings in Council, see *ibid.*, 1903, Pt. VI, p. 178 ; *ibid.*, 1904, Pt. VI, pp. 4, 20, 81, 137 and 162.

² See respectively General Acts, Vol. I, pp., 114, 123, and 134, Vol. IV, p. 622, and *supra*, p. 386.

³ Rep. by this Act.

⁴ The Act came into force on the 1st September, 1904, see Gazette of India, 1904, Pt. I, p. 628 ; and in the territorial limits of the Allahabad University from 1st October, 1904, see Gazette of India, 1904, Pt. II, p. 1140.

Short title
and com-
mencement

Interpreta-
tion.

(The University. Secs 3-4.)

- (b) the expression "the Government" means *in relation to the University of Calcutta the Governor General in Council, and in relation to the other Universities the Local Government* : and
- (c) the expressions "the University" and "the Act of Incorporation" and any expression denoting any University, authority or officer or any statute, regulation, rule or by-law of the University shall be construed with reference to each of the said Universities respectively.

The University.

3. The University shall be and shall be deemed to have been incorporated for the purpose (among others) of making provision for the instruction of students, with power to appoint University Professors and Lecturers, to hold and manage educational endowments, to erect, equip and maintain University libraries, laboratories and museums, to make regulations relating to the residence and conduct of students, and to do all acts, consistent with the Act of Incorporation and this Act, which tend to the promotion of study and research.

4. (1) Notwithstanding anything contained in the Act of Incorporation, the Body Corporate of the University shall consist of—

Incorporation and powers of the University.
Constitution and powers of the Senate.

- (a) the Chancellor ;
- (b) *in the case of the University of Calcutta, the Rector* ;
- (c) the Vice-Chancellor ;
- (d) the *ex officio* Fellows ; and
- (e) the Ordinary Fellows—
- (i) elected by registered Graduates or by the Senate,
- (ii) elected by the Faculties, and
- (iii) nominated by the Chancellor.

(2) The Ordinary Fellows shall, save as herein otherwise provided, hold office for five years :

Provided that an Ordinary Fellow who has vacated his office may, subject to the provisions of this Act, be elected or nominated to be an Ordinary Fellow.

(3) The Body Corporate shall be the Senate of the University, and all powers which are by the Act of Incorporation or by this Act conferred upon the Senate, or upon the Chancellor, Vice-Chancellor and Fellows in their corporate capacity, or *in the case of the University of Calcutta, upon the Chancellor, Rector, Vice Chancellor and Fellows in their corporate capacity*, shall

(Fellows. Secs. 5-6.)

be vested in, and exercised by, the Senate constituted under this Act, and all duties and liabilities imposed upon the University by the Act of Incorporation shall be deemed to be imposed upon the Body Corporate as constituted under this Act.

(4) No act done by the University shall be deemed to be invalid merely by reason of any vacancy among either class of elected Ordinary Fellows, or by reason of the total number of Ordinary Fellows or of members of the profession of education to be included among Ordinary Fellows, being less than the minimum prescribed by this Act.

*Fellows.**Ex officio*
Fellows.

5. (1) Notwithstanding anything contained in the Act of Incorporation, the persons for the time being performing the duties of the offices mentioned in the list contained in the first schedule to this Act or added to the said list under sub-section (2) shall be the *ex officio* Fellows of the University.

(2) The Government may, by notification published in the Gazette of India or in the local official Gazette, as the case may be, make additions to, or alterations in, the list of offices contained in the said schedule :

Provided that the number of *ex officio* Fellows shall not exceed ten.

Ordinary
Fellows.

6. (1) *In the case of the Universities of Calcutta, Bombay and Madras, the number of Ordinary Fellows shall not be less than fifty nor exceed one hundred ; and of such number—*

- (a) *ten shall be elected by registered Graduates ;*
- (b) *ten shall be elected by the Faculties ; and*
- (c) *the remainder shall be nominated by the Chancellor.*

(2) *In the case of the Universities of the Punjab and Allahabad, the number of Ordinary Fellows shall not be less than forty nor exceed seventy-five ; and of such number—*

- (a) *ten shall be elected by the Senate or by registered Graduates ;*
- (b) *five shall be elected by the Faculties ; and*
- (c) *the remainder shall be nominated by the Chancellor.*

(3) The election of any Ordinary Fellow shall be subject to the approval of the Chancellor.

(4) Elections of Ordinary Fellows by the Faculties and nominations of such Fellows by the Chancellor under this section shall be made in such manner as to secure that not less than two-fifths of the Fellows so elected and so nominated respectively shall be persons following the profession of education.

(Fellows. Secs. 7-8.)

7. (1) Once in every year, on such date as the Chancellor may appoint in this behalf, there shall, if necessary, be an election to fill any vacancy among the Ordinary Fellows elected by registered Graduates.

(2) The Syndicate shall maintain a register on which any Graduate who—

- (a) has taken the degree of Doctor or Master in any Faculty, or
- (b) has graduated in any Faculty not less than ten years before registration,

shall, subject to the payment of an initial fee of such amount as may be prescribed by the regulations, be entitled to have his name entered, upon application made within the period of three years from the commencement of this Act or of one year from the date on which he becomes so entitled ;

Provided that, if such application is made after the expiry of either of the said periods, the applicant shall be entitled to have his name entered on payment of the said initial fee, and of such further sum as may be prescribed by the regulations.

(3) The name of any Graduate entered on the register shall, subject to the payment of an annual fee of such amount as may be prescribed by the regulations, be retained thereon, and, in case of default, shall be removed therefrom, but shall, at any time, be re-entered upon payment of all arrears :

Provided that a Graduate whose name has been already entered on the register may at any time compound for all subsequent payments of the annual fee by paying the sum prescribed in this behalf by the regulations.

(4) No person other than a Graduate whose name is entered on the said register shall be qualified to vote or to be elected at an election held under sub-section (1).

(5) A Graduate registered under this section shall be entitled to such further privileges as may be determined by the regulations.

8. (1) The provisions of section 7 shall not apply to the University of the Punjab or to the University of Allahabad until the Chancellor, with the previous sanction of the Governor General in Council and by notification in the local official Gazette, so directs ; and until such time the Ordinary Fellows of the said Universities, who would be elected by registered Graduates if the said provisions were in force, shall be elected by the Senate.

(2) In the case of the University of the Punjab and the University of Allahabad, there shall, if necessary, be an election, once in every year, on

(Fellows. Secs. 9-11. Transitory Provisions. Sec. 12.)

such date as the Chancellor may appoint in this behalf, to fill any vacancy among the Ordinary Fellows elected by the Senate.

Election by
the Faculties.

9. (1) Once in every year, on such date as the Chancellor may appoint in this behalf, there shall, if necessary, be an election to fill any vacancy among the Ordinary Fellows elected by the Faculties.

(2) An election under sub-section (1) shall be held, subject to such directions prescribing the qualifications of the persons to be elected as may, from time to time, be given by the Chancellor, with a view to secure the return of duly qualified persons and the fair representation of different branches of study in the Senate.

Nomination
by the
Chancellor.

10. Subject to the provisions of section 6, the Chancellor may nominate any number of fit and proper persons to be Ordinary Fellows.

Vacating of
office.

11. (1) Any Ordinary Fellow may, by letter addressed to the Chancellor, resign his office.

(2) Where any Ordinary Fellow has not attended a meeting of the Senate, other than a Convocation, during the period of one year, the Chancellor may declare his office to be vacated.

Transitory Provisions.¹

Election and
nomination
of Ordinary
Fellows
within one
year after
commence-
ment of
Act, and
temporary
continuance
of existing
University
administra-
tion.

12. In their application to the election and nomination of Ordinary Fellows within the period of one year after the commencement of this Act and to the current business of the University, the provisions of this Act shall be read as subject to the following restrictions and modifications :—

(a) *In the case of the Universities of Calcutta, Bombay and Madras, the Chancellor shall, as soon as may be after the commencement of this Act, make an order directing that the Ordinary Fellows who under the said provisions are to be elected by registered Graduates, shall be elected by the elected Fellows holding office at the commencement of this Act, or by such Graduates of the University as the Chancellor may determine, or partly by elected Fellows and partly by such Graduates, and in such manner as the Chancellor may direct.*

¹ These provisions are now spent.

Any doubts which may have existed as to the legality of the orders issued under these provisions have been removed by the Indian Universities (Validation) Act, 1905 (2 of 1905), *infra*, p. 548.

(Transitory Provisions. Section 12.)

- (b) *When the Ordinary Fellows mentioned in clause (a) have been elected, the Chancellor shall proceed to the nomination of Ordinary Fellows under section 6, sub-section (1), clause (c).*
- (c) *The Ordinary Fellows mentioned in clauses (a) and (b) shall, as soon as may be after their appointment and in such manner as the Chancellor may direct, elect the Fellows who under the said provisions are to be elected by the Faculties.*
- (d) *In the case of the Universities of the Punjab and ¹ Allahabad, the Chancellor shall, as soon as may be after the commencement of this Act, proceed to nominate Ordinary Fellows under section 6, sub-section (2), clause (c).*
- (e) *When Ordinary Fellows have been appointed under clause (d), the Chancellor shall make an order directing that the Fellows who under the said provisions are to be elected by the Senate shall be elected by the Ordinary Fellows appointed under clause (d), or by elected Fellows holding office at the commencement of this Act, or partly by such Ordinary Fellows and partly by elected Fellows, in such manner as the Chancellor may direct.*
- (f) *The Ordinary Fellows mentioned in clauses (d) and (e) shall, as soon as may be after their appointment, and in such manner as the Chancellor may direct, elect the Fellows who under the said provisions are to be elected by the Faculties.*
- (g) *An election under clause (c) or clause (f) shall be made subject to such directions prescribing the qualifications of the persons to be elected as may be given by the Chancellor, with a view to secure the return of duly qualified persons and a fair representation of different branches of study in the Senate.*
- (h) *As soon as Ordinary Fellows have been nominated and elected under clauses (a), (b) and (c), or under clauses (d), (e) and (f), as the case may be, and the persons so elected have been approved by the Chancellor, the Chancellor shall declare² that the Body Corporate of the University has been constituted in accordance with the provisions of this Act, and shall append to the declaration a list of the Senate, and shall forward the said declaration and*

¹ For notification issued by the Chancellor of the University at Allahabad under this clause, see Gazette of India, 1904, Pt. II, p. 1169.

² For declaration by the Chancellor that the Body Corporate of the Allahabad University has been duly constituted and appending a list of persons constituting the corporation, see the United Provinces Gazette, 1904, Pt. I, p. 848.

See also the second footnote on immediately preceding page.

(*Transitory Provisions. Sec. 12.*)

the appended list to the Governor General in Council, who shall cause the declaration and list to be published in the Gazette of India.

- (i) The seniority of the Fellows included in the list mentioned in clause (h) shall be determined by the order in which their names appear in the list.
- (j) Until the said declaration is published under clause (h), the Fellows holding office at the commencement of this Act shall, together with the Chancellor and the Vice-Chancellor, continue to be the Senate of the University, and shall be entitled to exercise the powers conferred upon them by the Act of Incorporation.
- (k) Every Ordinary Fellow elected or nominated under this section shall, unless his Fellowship is previously vacated by death, resignation or any other cause, hold office for not less than three years.
- (l) At or about the end of the third year from the publication of the declaration mentioned in clause (h), the names of, as nearly as may be, one-fifth of the total initial number—
 - (i) of Ordinary Fellows elected under clause (a) or clause (e), as the case may be.
 - (ii) of Ordinary Fellows elected under clause (c) or clause (f), and
 - (iii) of Ordinary Fellows nominated by the Chancellor,
 (after deducting from the said one-fifth the names in each class which have previously been removed from the list mentioned in clause (h) by reason of death, resignation or any other cause) shall be drawn by lot from among the elected and the nominated Ordinary Fellows whose names were included in the list mentioned in clause (h) and those whose names are so shown, shall thereupon cease to be Ordinary Fellows.
- (m) At or about the end of the fourth, fifth and sixth years from the publication of the said declaration, the names of Ordinary Fellows shall be drawn by lot from each class of Ordinary Fellows included in the said list, in the manner provided in clause (l), so as to secure that, as nearly as may be, one-fifth of the Fellowships of the Ordinary Fellows so included in each class shall be vacated in each year.

(*Transitory Provisions. Sec. 12. Honorary Fellows. Sec. 13.*)

- (n) An Ordinary Fellow elected or nominated under this section who has not previously vacated his Fellowship, shall cease to be a Fellow at the end of the seventh year from the publication of the said declaration.
- (o) The Vice-Chancellor holding office at the commencement of this Act shall continue to hold office until the publication of the said declaration, and shall, if he is a member of the Senate as constituted under this Act, continue to hold office as Vice-Chancellor for the remainder of the term for which he was originally appointed.
- (p) The members of the Syndicate holding office at the commencement of this Act shall continue to conduct the executive business of the University until the publication of the said declaration; and, upon such publication, the Senate shall, in such manner as the Chancellor may direct, appoint a provisional Syndicate to conduct the executive business of the University until the Syndicate has been constituted under this Act.
- (q) The Senate as constituted under this Act may give orders for the provisional constitution of Faculties, Boards of Studies and of any Board or Committee of the Senate, pending the constitution of such Faculties, Boards and Committees in conformity with the regulations.
- (r) University Examiners and all officers and servants of the University shall continue to hold office and to act, subject to the conditions governing their tenure of office or employment, except in so far as such conditions may be altered by competent authority.
- (s) The statutes, regulations and by-laws of the University in force at the commencement of this Act shall continue to be in force, except in so far as the said statutes, regulations and by-laws shall be altered or repealed by competent authority.

Honorary Fellows.

13. (1) (a) A Fellow holding office at the commencement of this Act shall cease to be a Fellow. Honorary Fellows.

(b) Where a Fellow included in clause (a) does not become a Fellow under this Act, he shall be an Honorary Fellow for life.

(c) Where a Fellow included in clause (a) becomes a Fellow under this Act, he shall, whenever and so often as he ceases to be a Fellow under this Act, become an Honorary Fellow as provided in clause (b).

(Faculties and Syndicate. Sec. 14.)

(2) The Chancellor may nominate any person to be an Honorary Fellow for life, who is eminent for his attainments in any branch of learning, or is an eminent benefactor of the University, or is distinguished for services rendered to the cause of education generally.

(3) *Notwithstanding anything contained in this section, any Fellow who at the commencement of this Act is entitled as such to vote for the election of any person to be a member of any Council for the purpose of making laws and regulations or of any local authority, shall continue to be so entitled as if this Act had not been passed.

*Faculties and Syndicate.***Faculties.**

14. (1) Nothing contained in the Act of Incorporation shall be deemed to prohibit the constitution of a new Faculty or the abolition or re-constitution of any existing Faculty by the Senate under regulations made in accordance with the provisions of this Act.

(2) Regulations made under sub-section (1) may—

(a) provide for the assignment of Fellows to the several Faculties by order of the Senate ; and

(b) empower the Fellows so assigned to add to their number, in such manner and for such period as may be prescribed, Graduates in the Faculty and other persons possessing special knowledge of the subjects of study represented by the Faculty ;

Provided that the number of persons so to be added to the Faculty shall not exceed half the number of Fellows assigned to the Faculty.

(3) A person added to a Faculty under sub-section (2), clause (b), shall have the right to take part in the ordinary business of the Faculty, and in any election of an Ordinary Fellow by the Faculty, but shall not be entitled to take part in the election of the Syndicate.

Syndicate.

15. (1) The executive government of the University shall be vested in the Syndicate, which shall consist of—

(a) the Vice-Chancellor as Chairman ;

(b) the Director of Public Instruction for the Province in which the head-quarters of the University are situated ; and, in the case of the University of Allahabad, also the Director of Public Instruction in the Central Provinces ; and

(Degrees. Secs. 16-18. Affiliated Colleges. Sec. 19.)

- (c) not less than seven or more than fifteen *ex officio* or Ordinary Fellows
 • elected by the Senate or by the Faculties in such manner as may be provided by the regulations, to hold office for such period as may be prescribed by the regulations.

(2) The regulations referred to in sub-section (1) shall be so framed as to secure that a number not falling short by more than one of a majority of the elected members of the Syndicate shall be Heads of, or Professors in, Colleges affiliated to the University.

(3) If in the case of any election the question is raised whether any person is or is not a Professor within the meaning of sub-section (2), the question shall be decided by the Senate.

Degrees.

16. The Senate may institute and confer such degrees, and grant such diplomas, licenses, titles and marks of honour in respect of degrees and examinations as may be prescribed by regulation.

Degrees,
diplomas,
licenses,
titles and
marks of
honour.

17. Where the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate recommend that an honorary degree be conferred on any person on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree and where their recommendation is supported by not less than two-thirds of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the Senate may confer on such person the honorary degree so recommended without requiring him to undergo any examination.

Honorary
degrees.

18. Where evidence is laid before the Syndicate showing that any person on whom a degree, diploma, license, title or mark of honour conferred or granted by the Senate has been convicted of what is, in their opinion, a serious offence, the Syndicate may propose to the Senate that the degree, diploma, license, title or mark of honour be cancelled, and, if the proposal is accepted by not less than two-thirds of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the degree, diploma, license, title or mark of honour shall be cancelled accordingly.

Cancellation
of degrees, and
the like.

Affiliated Colleges.

19. Save on the recommendation of the Syndicate, by special order of the Senate, and subject to any regulations made in this behalf, no person shall be admitted as a candidate at any University examination, other than an examination for matriculation, unless he produces a certificate from a College

Certificate
required of
candidates
for examina-
tion.

(Affiliated Colleges. Secs. 20-21.)

affiliated to the University, to the effect that he has completed the course of instruction prescribed by regulation.

Existing
Colleges.

20. Any College affiliated to the University before the passing of this Act may continue to exercise the rights conferred upon it by such affiliation, save in so far as such rights may be withdrawn or restricted in the exercise of any power conferred by the Act of Incorporation or by this Act.

Affiliation.

21. (1) A College applying for affiliation to the University shall send a letter of application to the Registrar, and shall satisfy the Syndicate—

- (a) that the College is to be under the management of a regularly constituted governing body ;
- (b) that the qualifications of the teaching staff and the conditions governing their tenure of office are such as to make due provision for the courses of instruction to be undertaken by the College ;
- (c) that the buildings in which the College is to be located are suitable and that provision will be made, in conformity with the regulations, for the residence in the College or in lodgings approved by the College, of students not residing with their parents or guardians, and for the supervision and physical welfare of students ;
- (d) that due provision has been or will be made for a library ;
- (e) where affiliation is sought in any branch of experimental science, that arrangements have been or will be made in conformity with the regulations for imparting instruction in that branch of science in a properly equipped laboratory or museum ;
- (f) that due provision will, so far as circumstances may permit, be made for the residence of the Head of the College and some members of the teaching staff in or near the College or the place provided for the residence of students ;
- (g) that the financial resources of the College are such as to make due provision for its continued maintenance ;
- (h) that the affiliation of the College, having regard to the provision made for students by other Colleges in the same neighbourhood, will not be injurious to the interests of education or discipline ; and
- (i) that the College rules fixing the fees (if any) to be paid by the students have not been so framed as to involve such competition with any existing College in the same neighbourhood as would be injurious to the interests of education.

(Affiliated Colleges. Secs. 22-23.)

The application shall further contain an assurance that after the College is affiliated any transference of management and all changes in the teaching staff shall be forthwith reported to the Syndicate.

(2) On receipt of a letter of application under sub-section (1), the Syndicate shall—

- (a) direct a local inquiry to be made by a competent person authorized by the Syndicate in this behalf ;
- (b) make such further inquiry as may appear to them to be necessary ; and
- (c) report to the Senate on the question whether the application should be granted or refused, either in whole or in part, embodying in such report the results of any inquiry under clauses (a) and (b).

And the Senate shall, after such further inquiry (if any) as may appear to them to be necessary, record their opinion on the matter.

(3) The Registrar shall submit the application and all proceedings of the Syndicate and Senate relating thereto to the Government, who, after such further inquiry as may appear to them to be necessary, shall grant or refuse the application or any part thereof.

(4) Where the application or any part thereof is granted, the order of the Government shall specify the courses of instruction in respect of which the College is affiliated ; and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.

(5) An application under sub-section (1) may be withdrawn at any time before an order is made under sub-section (3).

22. Where a College desires to add to the courses of instruction in respect of which it is affiliated, the procedure prescribed by section 21 shall, so far ^{Extension} of affiliation, as may be, be followed.

23. (1) Every College affiliated to the University, whether before or after the commencement of this Act, shall furnish such reports, returns and other information as the Syndicate may require to enable it to judge of the efficiency of the College. ^{Inspection and report.}

(2) The Syndicate shall cause every such College to be inspected from time to time by one or more competent persons authorized by the Syndicate in this behalf.

(3) The Syndicate may call upon any College so inspected to take, within a specified period, such action as may appear to them to be necessary in respect of any of the matters referred to in section 21, sub-section (1).

(Affiliated Colleges. Sec. 24. Regulations. Sec. 25.)

Disaffiliation. 24. (1) A member of the Syndicate who intends to move that the rights conferred on any College by affiliation be withdrawn, in whole or in part, shall give notice of his motion, and shall state in writing the grounds on which the motion is made.

(2) Before taking the said motion into consideration, the Syndicate shall send a copy of the notice and written statement mentioned in sub-section (1) to the Head of the College concerned, together with an intimation that any representation in writing submitted within a period specified in such intimation on behalf of the College will be considered by the Syndicate :

Provided that the period so specified may, if necessary, be extended by the Syndicate.

(3) On receipt of the representation or on expiration of the period referred to in sub-section (2), the Syndicate, after considering the notice of motion, statement and representation and after such inspection by any competent person authorized by the Syndicate in this behalf, and such further inquiry as may appear to them to be necessary, shall make a report to the Senate.

(4) On receipt of the report under sub-section (3), the Senate shall, after such further inquiry (if any) as may appear to them to be necessary, record their opinion on the matter.

(5) The Registrar shall submit the proposal and all proceedings of the Syndicate and Senate relating thereto to the Government, who, after such further inquiry (if any) as may appear to them to be necessary, shall make such order as the circumstances may, in their opinion, require.

(6) Where by an order made under sub-section (3)¹ the rights conferred by affiliation are withdrawn, in whole or in part, the grounds for such withdrawal shall be stated in the order.

Regulations.

Regulations. 25. (1) The Senate, with the sanction of the Government, may from time to time make regulations consistent with the Act of Incorporation as amended by this Act and with this Act to provide for all matters relating to the University.

¹ *Sic* Read "(5)."

(Regulations. Sec. 25.)

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the procedure to be followed in holding any election of Ordinary Fellows ;
- (b) the constitution, reconstitution or abolition of Faculties, the proportion in which the members, other than the *ex officio* members, of the Syndicate shall be elected to represent the various Faculties, and the mode in which such election shall be conducted ;
- (c) the procedure at meetings of the Senate, Syndicate and Faculties and the quorum of members to be required for the transaction of business ;
- (d) the appointment of Fellows and others to be members of Boards of Studies, and the procedure of such Boards and the quorum of members to be required for the transaction of business ;
- (e) the appointment and duties of the Registrar and of officers and servants of the University, and of Professors and Lecturers appointed by the University ;
- (f) the appointment of Examiners, and the duties and powers of Examiners in relation to the examinations of the University ;
- (g) the form of the certificate to be produced by a candidate for examination under section 19 and the conditions on which any such certificate may be granted ;
- (h) the registers of Graduates and students to be kept by the University, and the fee (if any) to be paid for the entry or retention of a name on any such register ;
- (i) the inspection of Colleges, and the reports, returns and other information to be furnished by Colleges ;
- (j) the registers of students to be kept by Colleges affiliated to the University ;
- (k) the rules to be observed and enforced by Colleges affiliated to the University in respect of the transfer of students ;
- (l) the fees to be paid in respect of the courses of instruction given by Professors or Lecturers appointed by the University ;
- (m) the residence and conduct of students ;
- (n) the courses of study to be followed and the conditions to be complied with by candidates for any University examination, other than an examination for matriculation, and for degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University ;

(Regulations. Sec. 25.)

- (o) the conditions to be complied with by schools desiring recognition for the purpose of sending up pupils as candidates for the matriculation examination and the conditions to be complied with by candidates for matriculation, whether sent up by recognised schools or not;
- (p) the conditions to be complied with by candidates, not being students of any College affiliated to the University, for degrees, diplomas, licenses, titles, marks of honour, scholarships and prizes conferred or granted by the University; and
- (q) the alteration or cancellation of any rule, regulation, statute or by-law of the University in force at the commencement of this Act.

New body of regulations.

26. (1) Within one year after the commencement of this Act, or within such further period as the Government may fix in this behalf,—

- (a) the Senate as constituted under this Act shall cause a revised body of regulations to be prepared and submitted for the sanction of the Government;
- (b) if any additions to, or alterations in, the draft submitted appear to the Government to be necessary, the Government, after consulting the Senate, may sanction the proposed body of regulations, with such additions and alterations as appear to the Government to be necessary.

(2) Where a draft body of regulations is not submitted by the Senate within the period of one year after the commencement of this Act, or within such further period as may be fixed under sub-section (1), the Government may, within one year after the expiry of such period or of such further period, make regulations which shall have the same force as if they had been prepared and sanctioned under sub-section (1).

Miscellaneous.

Territorial exercise of powers.

27. The Governor General in Council may, by general or special order,¹ define the territorial limits within which, and specify the Colleges in respect of which, any powers conferred by or under the Act of Incorporation or this Act shall be exercised.

¹ For notification defining the territorial limits of the five Indian Universities, see Gazette of India, 1904, Pt. I, p. 627.

(Miscellaneous. Secs. 28-29. *The First Schedule.—Ex-officio Fellows of the University.*)

28. (1) The Lieutenant-Governor of Bengal for the time being shall be the Rector of the University of Calcutta, and shall have precedence in any Convocation of the said University next after the Chancellor and before the Vice-Chancellor.

(2) The Chancellor may delegate any power conferred upon him by the Act of Incorporation of this Act to the Rector.

29. The Acts mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof.

THE FIRST SCHEDULE.

(Section 5.)

EX-OFFICIO FELLOWS OF THE UNIVERSITY.

The University of Calcutta.

The Chief Justice of the High Court of Judicature at Fort William in Bengal.

The Lord Bishop of Calcutta.

The Civil Ordinary Members of the Council of the Governor General.

The Directors of Public Instruction in Bengal, Burma and Assam.

The University of Bombay.

The Chief Justice of the High Court of Judicature at Bombay.

The Bishop of Bombay.

The Ordinary Members of the Council of the Governor of Bombay.

The Director of Public Instruction in Bombay.

The University of Madras.

The Chief Justice of the High Court of Judicature at Madras.

The Bishop of Madras.

The Ordinary Members of the Council of the Governor of Madras.

The Director of Public Instruction in Madras.

The University of the Punjab.

The Chief Judge of the Chief Court of the Punjab.

The Bishop of Lahore.

The Director of Public Instruction in the Punjab.

The representatives of such Chiefs (if any) of territories not comprised in British India as the Local Government may, by notification in the local official Gazette, specify in this behalf.

(The Second Schedule.—Enactments repealed)

The University of Allahabad.

The Chief Justice of the High Court of Judicature for the North-Western Provinces.

The Bishop of Lucknow.

The Directors of Public Instruction in the United Provinces of Agra and Oudh and in the Central Provinces.

THE SECOND SCHEDULE.

(Section 29.)

ENACTMENTS REPEALED.

| Year. | No. | Short title. | Extent of repeal. |
|-------|-------|---|--|
| 1857 | II | <i>The Calcutta University Act, 1857.</i> | <i>In section 2, the word "said," wherever it occurs.</i> |
| | | | <i>In section 3, the first sentence and the words "Provided that."</i> |
| | | | <i>In section 5, the words "in the Calcutta Gazette."</i> |
| | | | <i>Section 6.</i> |
| | | | <i>Section 8, except the first sentence.</i> |
| | | | <i>Sections 9, 10, 11, 12, 13 and 14.</i> |
| | XXII | <i>The Bombay University Act, 1857.</i> | <i>In section 2, the word "said," wherever it occurs.</i> |
| | | | <i>In section 3, the first sentence and the words "Provided that."</i> |
| | | | <i>Section 6.</i> |
| | | | <i>Section 8, except the first sentence.</i> |
| | | | <i>Sections 9, 10, 11, 12, 13 and 14.</i> |
| | | | |
| | XXVII | <i>The Madras University Act, 1857.</i> | <i>In section 2, the word "said," wherever it occurs.</i> |
| | | | <i>In section 3, the first sentence and the words "Provided that."</i> |
| | | | <i>Section 6.</i> |
| | | | <i>Section 8, except the first sentence.</i> |
| | | | <i>Sections 9, 10, 11, 12, 13 and 14.</i> |
| | | | |
| 1860 | VII | <i>The Indian Universities (Degrees) Act, 1860.</i> | <i>The whole Act.</i> |
| | | | |

(The Second Schedule.—Enactments repealed.)

| Year. | No. | Short title. | Extent of repeal. |
|-------|-------|--|---|
| 1882 | XIX | <i>The Punjab University Act, 1882.</i> | <p>Section 6.</p> <p><i>In section 7, sub-section (1).</i></p> <p><i>In section 8, in sub-section (1), the words after the word "Fellow" to the end of the sub-section, and in sub-section (2) the words from the word "appointed" to the words "this Act."</i></p> <p><i>In section 9, the words "under this Act."</i></p> <p><i>Sections 10 and 11.</i></p> <p><i>Section 12, except the last paragraph.</i></p> <p><i>Sections 13, 14, 15, 16 and 18.</i></p> <p><i>In section 20, the words "made or," "section six, clauses (b) and (c), and" under sections fourteen, fifteen and sixteen.</i></p> <p><i>In the Schedule, Part I.</i></p> |
| 1884 | I | <i>The Indian Universities (Honorary Degrees) Act, 1884.</i> | The whole Act. |
| 1887 | XVIII | <i>The Allahabad University Act, 1887.</i> | <p>Section 5.</p> <p><i>In section 6, sub-section (1).</i></p> <p><i>In section 7, sub-section (1), and in sub-section (2), the words after the word "Fellow" to the end of the sub-section.</i></p> <p><i>Sections 10, 11, 12, 13, 14, 15 and 17.</i></p> <p><i>In section 20, the words and figures "appointments made and," "under section 5 sub-section (1), clauses (b) and (c)," "under sections 14 and 15" and "under section 17."</i></p> <p><i>In the Schedule, Part I.</i></p> |

(Validation.—Secs. 1-3.)

ACT No. II OF 1905.¹

[APPLIES TO THE UNITED PROVINCES.]

[10th February, 1905.]

An Act to validate action taken under the ²Indian Universities Act, 1904.

WHEREAS the ³Indian Universities Act, 1904, authorizes the Chancellor of ^{VIII of 19} each of the Indian Universities to make directions, declarations and orders with a view to the constitution of the Body Corporate and the appointment of the Provisional Syndicate thereof;

And whereas various directions, declarations and orders have been made in pursuance of the said authority, and Bodies Corporate and Provisional Syndicates have been constituted and appointed thereunder;

And whereas doubts have been raised as to the construction of the said Act and as to the validity of some of the said directions, declarations and orders and as to the validity of the constitution and appointment of some of the said Bodies Corporate and Provisional Syndicates, and it is expedient to remove such doubts;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Universities (Validation) Act, 1905.

Validation of directions, declarations, and orders.

2. All directions, declarations and orders made as aforesaid, shall be deemed to have been duly made under the ⁴Indian Universities Act, 1904.

VIII of 1904.

Validation of constitution and appointment of Bodies.

3. The Bodies Corporate and Provisional Syndicates constituted and appointed as aforesaid shall be deemed to have been duly constituted and appointed under the said Act.

¹ For Statement of Objects and Reasons, see Gazette of India, 1905, Part V, p. 13; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 6 and 14.

² *Supra*, page 530.

